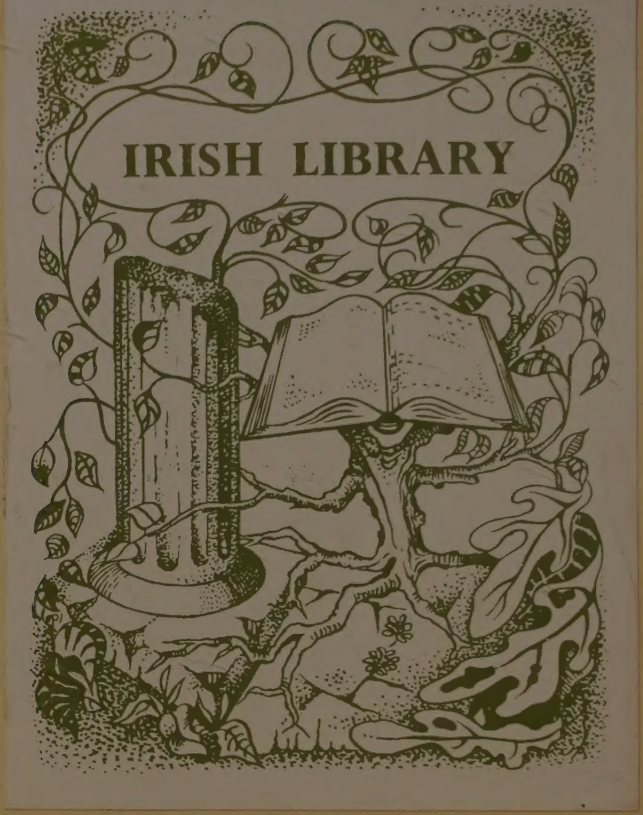
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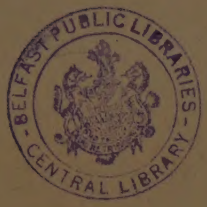

BY

T. M. HEALY, M.P.

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PREFACE.

These pages give a shorter, and, it is hoped, a less legal, setting to facts published for the first time some five years ago under the title, "Stolen Waters." They chiefly concern those counties of Ulster lately threatened with severance from the rest of Ireland. The story, such as it is, has been re-told and simplified in the hope that acquaintance with it may quicken and heighten the spirit of resistance to the statecraft of Partition.

A stubborn fight for a great stake has been waged in the disputed area for three hundred years, and the struggle to clutch the prize exhibits more starkly than any other single theme the felonious continuity of Anglo-Ulster administration.

Those in control of Irish government calmly look down on the spectacle of a noble public heritage abandoned to a "privy paw." Wiseacres advise the losers and the wronged to "forget the past." No people have more need to remember it.

That the past has no bearing on the present, and that "brooding" on it is ill for soul and body, is a conceit of despotism. Other races are taught at their mother's knee that their welfare has been influenced, hindered, or promoted by the tyranny or the heroism, the crimes or the virtues, of vanished men.

Every presentation of Irish records is rated by the ruling caste as distorted or perverse unless oppression is garbed in justification and rapacity garnished with slanders on its prey. The cant of conquest always seeks to make the invaders paladins of virtue, and their victims brutish monsters. The

conquered are even liable to be misled by the writings of their enemies.

To-day in warring Europe the despoilers of prostrate nations doubtless have all the printing presses and all the hired authors going full blast in their favour. Three hundred years hence such output will still not be without its effect. In the dark ages of Ireland Chichester was almost canonised, and his co-rogue, Sir John Davies, left in a state of minor beatification, on their own certificates of self-praise. This sketch attempts, on other evidence, to do justice to their memories and their works.

T. M. HEALY.

Glenaulin,
Chapelizod,
8th September, 1917.

ERRATA.

Page 19	"1572"	*should be*	1571.
„ 100	"this investigation"	„	„ a previous investigation.
„ 116	"suffering"	„	„ sufferings.
„ 156	"damage"	„	„ damages.
„ 179	"1613"	„	„ 1615.

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"STOLEN WATERS."

SOME PRESS NOTICES.

"We can welcome Mr. Healy's treatment of a difficult and obscure episode in the history of Ulster as on the whole impartial, and based on a judicial reading of a vast accumulation of documentary evidence. . . . In his capacity as historical detective he is fair-minded to a degree, which would amaze us if we were not so well acquainted with the well-tempered quality of an intellect that for subtlety and power and a dispassionate coolness is not surpassed by that of any Irishman living. . . . The wonderful net of intrigue by which all this was contrived has been carefully unravelled by Mr. Healy with a pertinaceous ingenuity worthy of Sherlock Holmes."—*Morning Post.*

"Mr. Healy has accomplished a difficult task with considerable success. The result of his labours is an absorbing book. . . . The author has succeeded in weaving a romantic story out of the dry material of official records and legal documents."—*Athenæum.*

"The story that Mr. Healy tells has something of the flavour of historical romance. . . . Mr. Healy's method of argument on the main issue is calm and temperate. . . . A wonderful effort in legal and historical research."—*London Daily Telegraph.*

"It is a truism that only the busiest men have any time to spare, and it is proved again by the publication of an elaborate historical study by Mr. T. M. Healy, the famous Irish M.P., who is as entertaining and brilliant with his pen as he is in speech. Mr. Healy tells his story with enthusiasm and thoroughness."—*London Express.*

"Mr. Healy is a lawyer of original genius who, almost more frequently than any other man of his time, has performed the unexpected. He has done so once again in this extraordinary book, which tells, with many touches of eloquence and here and there a characteristic sting, the tangled story of a legal dispute. . . . A work of argument and legal history written with sustained eloquence and frequent felicity. . . . A task which only a passionate sense of duty and determined doggedness could have achieved. As the author in his picturesque manner puts it, the scent was often stale, but despite the difficulties and uncertainties that confronted him, he has achieved what he sought, and presents the result to the expert and the curious."—*Outlook (London).*

"Mr Healy constructs a story of remarkable interest. By dipping into it here and there some instructive glimpses will be obtained of the fashion in which Irish history was made in bygone centuries."—*Observer (London).*

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"Of the utmost value. . . . Mr. Healy is to be congratulated on the manner in which he has fulfilled this work."—*Tablet.*

"A notable volume, 'Stolen Waters.' The book, which was noticed at length in the leader columns of this paper, is a monument of patient research."—*Manchester Guardian.*

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"It is a tribute to the skill of Mr. Healy that he has made so interesting a narrative out of a record of legal chicanery. As told by him, the history of the title in the seventeenth century is an amazing story of fraud in high places."—*Scotsman.*

"Written in the pungent style of which Mr. Healy is so great a master, the book is eminently readable throughout. . . . This erudite and eloquent volume."—*Dundee Advertiser.*

"Mr. Healy contributes to Irish literature a valuable volume."—*Sheffield Independent.*

"Elaborate in its thorough investigation of the historical side. . . . Mr. Healy's book is a formidable impeachment of one more chapter in the horrid story of English mis-government in Ireland."—*Yorkshire Observer.*

"Mr. Healy has written a very elaborate treatise. . . . Is, indeed, a most scholarly essay, the result of exhaustive research."—*Yorkshire Post.*

"It is evidently the result of a wonderful amount of labour in delving among official and legal records, and the student of Irish affairs will find that the author has collected a mass of matter not to be found elsewhere except at the cost of much trouble."—*Nottingham Guardian.*

"Learned and comprehensive as it is, the book is most interesting throughout."—*Belfast News-Letter.*

"The book is a monument of the sort of painstaking industry that most orators shirk in favour of easier-won bravura effects. 'Stolen Waters' is less a fiery philippic than a sober historico-legal study of a phase of Irish history, a solid piece of research work of which we have had all too little in this country. Mr. Healy is a formidable tracker, combining the pertinacity of the Red Indian with the ingenuity of Sherlock Holmes. . . Even the layman must realise the patient and laborious scholarship that has gone to the making of this book, and cannot fail to be impressed by his power of marshalling great unwieldy masses of facts and the subtlety and dexterity of his analysis. . . . It abounds in strange contrasts and dramatic surprises, unravels a tangled tale of corruption and chicanery that might have inspired a score of novels of intrigue, and links up in a startling fashion the events of three hundred years ago with the happenings of the day before yesterday."—*Northern Whig.*

"The compiling of Mr. Healy's book was about as hard and as distasteful work as any historian could undertake. He had to delve into records and wade through State papers practically untouched since the day they were written. And when the facts were revealed he had to piece them together the way one would reconstruct a jig-saw puzzle. All this infinite toil and trouble has been faced. . . . Mr. Healy's book, with its wealth of historical lore and its fascinating if grim tale of the way the Plantation of Ulster was carried."—*Ulster Guardian (Belfast).*

"Mr. Healy's remarkable book."—*Irish Independent.*

"One of the most valuable practical contributions ever made to the as-yet-unwritten history of Ireland. . . . He has done more than any man since Lecky to furnish the Irish Gibbon of the future with new light on the most obscure problems of the Ulster Plantation. . . . As a mere collection of quotations he would have produced a book of enthralling interest. The connecting narrative in which he strings them together is worthy of Mr. Healy's clear-cut, caustic, and vigorous English at its best. Indeed, his style seems to have caught a new charm of Old Testament austerity. The book will be a *Memoire pour Servir* of the highest service to the students of Irish history."—*Cork Free Press.*

"Mr. Healy has taken much trouble in using the original documents. . . . A great wealth of evidence, giving careful reference."—*Church of Ireland Gazette.*

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"Mr. Healy's most interesting book. . . . Contains on every page the evidence of unending pains and research, is full of sidelights upon Irish history. . . . The erudite, yet fascinating, pages of Mr. Healy."—*Catholic Book Notes.*

"A notable volume. . . . The book is a monument of patient research."—*Manchester Weekly Times.*

"Mr. Healy has written a remarkable book which is of considerable interest. . . . The whole story is one of absorbing historic interest."—*The Fish Trades Gazette.*

"Mr. Healy has devoted much time to research, and he has produced a fascinating story."—*Natal Mercury.*

"What will please the general reader in 'Stolen Waters' is the incidental information, the look-as-you-go glimpses at the great Irish chieftains and clans. . . . Information of an unusual historical character.—*Chicago Inter-Ocean.*

"The volume is important from a historical and legal standpoint. . . . Mr. Healy's interesting book.—*Boston Globe.*

"Mr. Healy's long but interesting narrative."—*Catholic University Bulletin (Washington).*

"A learned work. . . . If the decision of the House of Lords is proved to be based on documents that are either forgeries or letters patent obtained by a criminal act, then legislation would at once be introduced to deal with the matter."—*Contemporary Review.*

"Proves the patience of the writer, who gives us a narrative of historical interest as well as a work of real legal worth. . . . Many would surmise that a work on such a topic must be necessarily a 'dry-as-dust' book. We have found it interesting indeed. We do not think it possible to get a real insight into the Irish questions that loom so very large in politics to-day without reading of some of the methods adopted in 'settling Ireland' in Tudor times. The earlier chapters of this learned work give some valuable information on those matters. Historical and legal students will be indebted to the author for so many quotations of rather inaccessible documents."—*Western Morning News.*

"Of decided value to students of Irish history, for its pages show the chicanery and thirst for plunder that have been dominant in the past government of Ireland."—*The Nation.*

"Mr. T. M. Healy, M.P., is the raciest—and the bitterest—speaker in public life. His abilities are altogether uncommon. But if he will forgive us for saying so, he cannot write a book."—*Birmingham Post.*

"Dull, even at times ungrammatical, from a perusal of its pages we do get a very clear idea of the terrible extent to which legal chicanery was used by English officials to enrich themselves and their friends during the sixteenth and seventeenth centuries."—*Irish Times.*

"For a full account one should read that epic of chicanery, Mr. Healy's 'Stolen Waters'."—*The New Witness.*

"Mr. Healy has thrown some new light on an obscure and devious by-path of Irish history. . . . The book is not pleasant reading, but it illuminates the manner in which the English aristocracy has 'governed' Ireland."—*Evening Post (New York).*

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THE GREAT FRAUD OF ULSTER

LEADING DATES.

Con O'Neill accepts Earldom and Patent of Tyrone ...	1st October, 1542.
Title of King of Ireland conferred on Henry VIII. ...	23rd January, 1543.
Shane O'Neill slain by the MacDonalds	June, 1567.
Act of Elizabeth confiscating Tyrone	1569.
Patent to Claneboy O'Neills	13th March, 1587.
Revolt of Hugh O'Neill	1594.
Sir Con O'Neill, of Claneboy, adheres to Elizabeth ...	1600.
O'Cahan, MacDonnell, and O'Byrne join Elizabeth ...	1602.
Submission of Hugh O'Neill	24th March, 1603.
Accession of James I.	24th March, 1603.
Mountjoy (Earl of Devonshire) sails with O'Neill and O'Donnell for England	26th May, 1603.
Patent to MacDonnell includes fourth of tidal Bann	28th May, 1603.
King's Letter appoints Chichester Governor Carrickfergus, with Belfast estate	8th August, 1603.
King's Letters regrant Tyrone to O'Neill	23rd August, and 1st September, 1603.
Patents to Chichester under King's Letter of 8th August	10th September, and 5th November, 1603.
King's Letter grants John Wakeman (Devonshire's nominee) £100 a year	8th November, 1603.
John Davies arrives as Solicitor-General	20th November, 1603.
King's Letter to Chichester, amending Letter of 8th August, 1603	29th December, 1603.
Wakeman's Patent of St. Mary's Abbey	28th February, 1604.
Wakeman's Patent of Meath, Westmeath, and Kilkenny lands	5th March, 1604.
Chichester's Patents, under amended Letter, take Lough Neagh and the Bann for life	9th May, 1604.
Chichester appointed Lord Deputy	15th October, 1604.
King's Letter grants Thomas Irelande £100 a year ...	6th December, 1604.
Partition of Claneboy with James Hamilton and Hugh Montgomery	January, 1605.

Chichester sworn in as Deputy	3rd (? 24th) February, 1605.
Thomas Irelande assigns £100 a year to Hamilton ...	26th February, 1605.
King's Letter to Hamilton for Claneboy, &c.	16th April, 1605.
Chichester's protest to Cecil against Hamilton's grants	19th June, 1605.
Chichester's Commission for Inquisition into Hamilton's grants	26th June, 1605.
Inquisition at Antrim as to Hamilton's grants ...	12th July, 1605.
Chichester agrees to share spoil with Hamilton ...	July, 1605.
Hamilton granted Coleraine Priory and Bann tithe fishing (under Thomas Irelande's Letter) ...	20th July, 1605.
Hamilton assigns Coleraine Priory and Bann tithe fishing to Captain Thomas Phillips	23rd September, 1605.
Thomas Jones, Archbishop of Dublin and Lord Chancellor	14th October, 1605.
Wakeman's power-of-attorney to Auditor Ware ...	21st October, 1605.
Hamilton's Patent for Claneboy (King's Letter, 16th April)	5th November, 1605.
Gunpowder Plot affects Anglo-Irish policy	5th November, 1605.
Hamilton's Patent for Lough Neagh and Bann, &c., under Thomas Irelande's Letter	14th February, 1606.
Auditor Ware (Wakeman's assignee) granted tidal Bann	2nd March, 1606.
Auditor Ware assigns tidal Bann to Hamilton ...	3rd March, 1606.
Hamilton's Patent of Trim, &c., under Thomas Irelande's Letter	13th March, 1606.
Hamilton's Patent of Westmeath lands under Thomas Irelande's Letter	17th March, 1606.
Earl of Devonshire's will	2nd April, 1606.
Earl of Devonshire's death	3rd April, 1606.
Hamilton assigns Lough Neagh and non-tidal Bann, &c., to Chichester	10th April, 1606.
Hamilton's Patent of Antrim and Down customs under Wakeman's Letter	11th April, 1606.
Hamilton assigns fourth of tidal Bann to Chichester	14th May, 1606.
Hamilton's Patent, Westmeath and Longford lands under Wakeman's Letter	18th May, 1606.
John Davies promoted Attorney-General	29th May, 1606.
O'Cahan v. O'Neill tried by Chichester	May and June, 1607.
Flight of the Earls (O'Neill and O'Donnell, &c.) ...	14th September, 1607.
O'Cahan's imprisonment	February, 1608.
Hamilton's Patent of Wexford lands under Thomas Irelande's Letter	13th May, 1608.
Sir Cahir O'Doherty's rebellion	May-July, 1608.

Niall Garve O'Donnell's imprisonment	1608.
Patent to Bassett of all Hamilton conveyed to Chichester, with MacDonnell's fourth of the tidal Bann	1st July, 1608.
Bassett re-assigns contents of Patent to Chichester ...	23rd January, 1609.
King's Letter to Chichester for Sir Cahir O'Doherty's estate	30th July, 1609.
Inquisition at Limavady declares Bann Chichester's	30th August, 1609.
James I. grants Bann, Lough Foyle, and Derry to City of London	28th January, 1610.
Hamilton's additional Patent, St. Mary's Abbey ...	23rd February, 1610.
Hamilton receives £4,500 compensation for Bann and Lough Foyle	June, 1610.
Chichester annuls grant to MacDonnell of "fourth" of Bann	November, 1610.
Chichester's surrender, via Archbishop Jones, of Bann and Lough Foyle	3rd April, 1611.
Sham Corporations created to pack Parliament ...	1612-1613.
Londoners' Ulster Charter sealed	29th March, 1613.
Planters' Parliament meets	18th May, 1613.
Recusants' protest against packing Parliament ...	July, 1613.
Chichester created a peer	25th February, 1614.
Planters' Parliament escheats Ulster estates	1615.
Planters' Parliament dissolved	24th October, 1615.
Sir John Davies' legal reports published	1615.
Chichester dismissed from Deputyship	29th November, 1615.
Chichester appointed Lord High Treasurer	2nd July, 1616.
Hugh O'Neill dies in Rome	20th July, 1616.
Crown Rental describes Bann as Chichester's	1618-1619.
Deputy St. John investigates Wakeman-Irelande Patents	October, 1618.
Archbishop Jones, Lord Chancellor, dies	10th April, 1619.
Davies resigns Attorney-Generalship	30th October, 1619.
King's Letter for re-grant to Chichester	8th August, 1620.
Inquisition at Derry finds Bann for Londoners ...	26th March, 1621.
Inquisition at Carrickfergus finds Bann and Lough Neagh for Chichester	6th April, 1621.
Patent to Chichester includes Lough Neagh and the Bann	20th November, 1621.
Chichester made Ambassador to Palatinate	January, 1622.
Chichester leases Lough Neagh to Londoners	1622.
Wakeman Patents condemned by Exchequer Barons	1623.
Chichester dies in London	19th February, 1625.
James I. dies	27th March, 1625.
Chichester's embezzlements exposed	1625-1626.
Sir John Davies dies	December, 1626.

Sir A. Forbes' fishery "discovery"	21st October, 1628.
Opinion of ex-Baron Oglethorpe condemns Wakeman Patents	26th April, 1630.
Strafford, Lord Lieutenant	3rd July, 1633.
Londoners' Irish estate seized by Charles I.	1635.
Inquisition at Wicklow annuls Wakeman Patents ...	21st April, 1636.
King's Letter requiring surrender of Lough Neagh from Edward Chichester	24th September, 1638.
Edward Chichester surrenders Lough Neagh and the Bann	1st July, 1640.
Patent to Edward Chichester for estate (less fisheries)	22nd September, 1640.
Commonwealth ordinance restores Londoners' estate	4th September, 1655.
Cromwell leases Lough Neagh to Clotworthy	13th May, 1656.
Henry Cromwell inserts Bann in Clotworthy's lease	14th August, 1656.
Cromwell's Charter restores Londoners' estate ...	24th March, 1657.
Oliver Cromwell dies	1658.
Charles II. confirms lease to Clotworthy	15th November, 1660.
Charles II. grants reversion of Clotworthy's lease to Lord Donegall	28th February, 1661.
Patent to Lord Donegall of reversion of Bann and Lough Neagh	3rd July, 1661.
Charter of Charles II. restores estate to Londoners	10th April, 1662.
Chichester Patent of 1640 "enrolled"	1665.
Clotworthy's lease expires	14th August, 1755.
Lord Donegall's litigation with Londoners	1781-1801.
Londoners' ejectment claims Bann from Lord Donegall	1868.
Londoners accept lease of Bann under Lord Donegall	1872.
Public right in Lough Neagh challenged	1873-1878.
Public right in Lough Neagh annulled	1908-1910.

THE GREAT FRAUD OF ULSTER

CHAPTER I.

THE MEN OF DEVON.

WHEN Elizabethan England blazed with glory, martial and poetic, when the booty of the Spaniard enriched her adventurers, and the genius of her minstrels charmed every heart, the hills and valleys of the "sister island" echoed with horror, and her pleasant places were filled with the groans of wounded men. A group of Devon captains waged there a fearful war, led by the Queen's Deputy, Lord Mountjoy. Reckless of their own lives, their deeds of valour scarcely noted by their countrymen, they ended their stubborn task, after a nine years' death-grapple, by the levelling of every hostile stronghold and the reduction of the clansmen and their shielings into "carcases and ashes."

At the moment when the victors expected to reap their reward and take possession of the domains of their enemies the course of history was changed by the death of Queen Elizabeth. As her successor the Privy Council selected the King of Scots, who had at times been the secret ally of the Irish chieftains. This choice baulked many a warrior's hope of prey. James I. forgave O'Neill and O'Donnell (who, indeed, had never offended him), summoned them to London to receive pardon, and restored them to their honours and estates. They had rebelled, as he knew, to save their possessions from covetous officials who, by inventing charges of treason against them, deceived Elizabeth in order to make confiscation a virtue in her eyes.

In her reign the settled plan of the Executive was: to affect to further the interests of the Crown by promoting forfeitures, and then to divert them to the benefit of officials. The disgrace was a legacy bequeathed to her Majesty, her heirs and successors; the booty they kept for themselves. To-day the Crown lands of Ireland, despite three general confiscations, yield only £19,000 a year. In England, where, since the Wars of the Roses, there have been no wholesale spoliations, the Crown estates enrich the Exchequer by £488,000 a year. The cost of prostrating the Irish was borne by the British taxpayer. The profit from it went into private pockets.

James I. tried to reward the conquerors without beggaring the conquered. Lord Mountjoy, who, on the 6th June, 1603, led O'Neill and O'Donnell through London, was given grants of lands and Custom duties in England and was made Earl of Devonshire. His main assistants in the rebellion were two other Devon men—Sir George Carew, who commanded in Munster, and Sir Arthur Chichester, who ravaged Ulster. Between Mountjoy and Carew a close friendship existed. Mountjoy's letters in the "Pacata Hibernia" manifest the warmth of their relations. Carew was equally confidential with his comrade-in-arms. His cipher of 1602 apprises Mountjoy of the dispatch of a poisoner to follow Red Hugh O'Donnell into Spain, after the defeat at Kinsale. Another tells of the murderer's success, as O'Donnell was about to secure fresh aids from the Spanish King. Such secrets are entrusted only to bosom friends.

Sir Arthur Chichester was also the intimate of Mountjoy. He had, as a short-cut to end the rebellion, tried to compass the assassination of Hugh O'Neill; and, when this failed, he atoned for his ill-success by devices equally ruthless. The Deputy supported them in everything; and, when the Scotch succession came about, he wished that James I. should repay them royally. Cecil, the most influential Minister of the King, was the friend of all three; and he found it natural that,

when James took back to favour Irish noblemen lately in arms, the recompense of those who had reduced them to submission should not be stinted. Chichester came to London from Ireland to push his claims and, accordingly, on the 8th August, 1603, he received in fee the Castle of Belfast, with lands adjoining of undefined extent, and was appointed Life Governor of Carrickfergus at 13s. 4d. a day.

Carew's worth was recognised in what seemed a less grateful fashion, for on the 28th September, 1603, he was allowed an estate of the value only of £100 a year. This looked an unworthy return; but it represents in present money £1,000 a year. Neither Chichester nor Carew was content with his requital, for each believed that, if the reconciliation between James and the Northern chiefs had not taken place, their swords would have reaped a richer harvest. With this feeling Mountjoy (now Earl of Devonshire) sympathised. So it came to pass that a system was established by which the royal demesne was stripped, for their benefit, and his own. There was at least plenty of monastery plunder to be divided.

The looseness of the times, the feeling aroused among angry captains at the favour shown to surrendered rebels, the grasping example of the Scotch adventurers who swarmed over the Border after King James, the readiness of his consort to lend herself to their petitions—all tended to excite men in power in an unsettled land to batten on the public treasure. The Earl of Devonshire knew that it was illegal for him, as Deputy, or for his officials, to take or possess estate without royal licence. Still the chances offering were too alluring to be thrown away. Yielding to temptation, he abused his trust and soiled his hands.

The plan on which he and his friends worked bore the semblance of legality. A "King's Letter" was employed to mask every fraud. Such a Letter was a warrant obtained by a petitioner for royal favour. It was usually submitted in draft by the applicant to his Majesty engrossed on

parchment. Sometimes two or three skins were sewn together, making it of great size. Its terms, if approved, defined the royal bounty or prescribed the royal will. It was sent to the Signet Office in London when perfected, and was there copied into the Signet Book. Then it was dispatched to Dublin, where a fiant (or order) of the Law Officers to make it "patent" was issued. The Patent was supposed to put the Letter into legal form, but, by official connivance, it often included grants that had never been authorised. When sealed under the Great Seal of Ireland by the Lord Chancellor, a copy was generally "enrolled" in Chancery. This merely meant that its words were inscribed in the vellum rolls kept by the Court officials.

In Stuart days no system of comparing or checking the King's Letters with the Patents existed, unless the Crown lawyers chose to direct that precaution. If they were corrupt, the Crown was robbed. In that era, official corruption was almost universal. No register of Patents was kept, and grantees constantly strove to extend the limits of their Letters, so as to secure more than the King intended. With influential backing, any fraud was possible. If the grantee did not enrol his grant the Crown was left without even a copy, and could not always tell which of its possessions had been given away. Looseness was fostered by lack of system as well as by lack of honesty.

The Attorney-General and Solicitor-General were supposed to oversee the Patents. They were often needy adventurers, imported from some London Inn of Court on the nomination of accomplices in the Executive. The Lord Lieutenant was their master, and they did not pretend to independence, but obeyed their superiors without question. Honesty injured their prospects, and they seldom affected to practise that unusual virtue. It was a time when much ecclesiastical property was forfeit, especially in Ulster, where the downfall of the Gael enabled the Statutes of Henry VIII. against the monas-

teries to be at last enforced. St. Mary's Abbey, Dublin, at its dissolution by Henry VIII. reputed to be the richest in Ireland, held valuable possessions in every province, and several fraudulent Patents made raids on them. Many of these were given over to the Lord Lieutenant and his confederates on flimsy pretences. Public advantage from the confiscations was nil.

The King's entourage was not fettered by vows of poverty. Courtiers who boasted no virtue themselves did not look for shining examples from Irish officials. They knew these men had left England for their advancement, to make what they could out of a conquered country. The Castle in Dublin was a coarse replica of the Court in London. The spendthrift habits of James I. bred extravagance in his underlings. To deceive that slobbering pedant seemed a small demerit to the Anglo-Irish harpies who regulated their profligacy by London standards.

The clearing-house of corruption in the metropolis for the sale of offices and favours was kept by Michael Hicks of Ruckholt, son of a Cheapside shopkeeper, who had been Burleigh's secretary in Elizabeth's reign. Hicks was Cecil's playfellow in youth; and at his mart much was to be learnt of the schemes and foibles of great men.

After Devonshire's arrival in England in June, 1603, he was held in thrall by a love affair with the wife of Lord Rich, and never returned to Ireland. He was made Lord Lieutenant by James I., and was able at Court to lend countenance to the malpractices of his friends. To hide his own share in them he worked behind nominees, the principal being henchmen named John Wakeman and John King. The latter he sent over from England to a post in Dublin. Devonshire's participation in the loot began on the 8th November, 1603. He then secured a King's Letter for a grant of lands to the value of £100 a year in favour of John Wakeman, on the plea that it represented the Royal gratitude for " services done unto

Us and to be done and also in regard to a valuable consideration in money paid and to be paid by our order to an ancient and well-deserving servant of ours in Scotland" by Wakeman. The "old servant" was a myth. So was the money payment by Wakeman to him. So was the £100 a year limit of recompense. From November, 1603, till the Earl's death in April, 1606, a stream of grants, nominally to John Wakeman, but really for the Lord Lieutenant, flowed from this source. In yearly value they amounted to several thousands of pounds.

Wakeman was a servant of the Levant Company who in 1603 had returned from trading with the Emperor of Morocco. That he had made any payment among the Moors to "well-deserving" Scotchmen in Elizabeth's reign was unlikely, yet over a dozen Patents of enormous value were passed in his name, on pretence of rewarding him to the extent of £100 a year. Devonshire's second go-between, John King, was made Clerk of the Crown in Dublin on the 12th July, 1603, and received much property on pretexts equally flimsy.

In order that these practices might be safely carried out, the Lord Lieutenant arranged with Cecil to dispatch to Ireland, as soon as John King was appointed, a law officer on whom they could rely. This was John Davies, a hungry lawyer from the Middle Temple, who afterwards was knighted for his part in fleecing Hugh O'Neill. Davies was nominated in September, 1603, and was sworn-in in Dublin during November, 1603. His unscrupulousness and cunning were beyond the common even of those spacious days. To him must be ascribed the feats of conveyancing, the multiplication of Patents, the shady trusteeships, the magnification of grants, and the plunder of the Gaelic gentry, which defile the reign of James I. His arrival worked an immediate improvement in the fortunes of Chichester and Carew.

On the strength of a warrant for £100 a year, Carew received three Patents. Each included lands far exceeding

that sum in annual value. Like John King and John Wakeman, Sir George served as agent for others in the obtainment of grants. In one case, on receiving a King's Letter in his own favour, he two days later assigned all rights under it to Richard Boyle, the notorious Earl of Cork. This helped Boyle to enlarge the huge estate in Munster which he had snatched from Sir Walter Raleigh—who had himself seized it from the Earl of Desmond. Other officials who dredged in the same muddy tide were Hibbots, Chancellor of the Exchequer; Cooke, Secretary of State; St. John, afterwards Deputy; and the law officers, Davies and Jacob, with many besides.

Before any Patent could legally be made out, the law required conditions to be fulfilled which these worthies entirely disregarded. Notice should first be given to the public, and an inquiry held into the nature of the grant, and the power of the King to make it. So strict was Statute on this point that Patents issued in default of prior inquiry were declared to be "void and holden for none." This did not trouble Davies or his confederates, who set aside legal safeguards as lightly as moral principles. King James knew naught of their devastations, and it would have touched him nearly to hear the fate of St. Mary's Abbey—which his predecessors were firm in retaining. Neither Henry VIII. nor Elizabeth would permit its possessions to be recklessly squandered.

Founded by a Gaelic Prince, its revenues were increased after the Conquest by successive Norman Kings. The Abbey gave hospitality to strangers who came overseas, and was frequently used as a lodging by the Viceroys. Deputy Leonard Gray strove to save it from confiscation, but he was recalled by Henry VIII., who suspected him, and had him beheaded. Henry ordered the Dublin portion of the Abbey to be reserved for the Royal ordnance; and Elizabeth, although she gave a site to Trinity College out of its possessions, rejected in 1567 the prayer of the Mayor and Burgesses of Dublin that some portion should be let to them "in consideration of their

loyal and dutiful services." The Queen requited their loyalty by a grant of other lands; but her hold on St. Mary's Abbey she would not lightly relax.

This made the trick played on King James the more scurvy. Mere monastery pickings, however, were trifles compared with the other colossal thefts carried out under the new regime. At no period before or since was there anything to equal them in hardihood. The operations of Chichester were more extensive and ingenious than those of his co-mates, and entailed larger historic consequences.

CHAPTER II.

THE RAPE OF THE LOUGH.

THE ingenuity of Davies helped to distend beyond all honest limits the grants allotted to Chichester, who coveted properties too unique and vast to be openly proposed for his reward. Sir Arthur's Castle at Carrickfergus lay neighbourly to Lough Neagh, and on this great prize, with its outlet, the fishful Bann, he had set his heart. To crave such guerdon for his services would have been in vain. It was not the King's to bestow, and never had been seized or claimed by the Crown. With official connivance he might lay hands on it, but his power in the State was limited. James I. had chosen him with Sir Henry Docwra and Sir William Godolphin as a partaker in the Government during Devonshire's absence; but he shared a divided authority, and had to beware of jealousy or exposure.

Lough Neagh lay outside the territory of every native chieftain, while the Bann belonged to notables whose rights could not lightly be trespassed on. In 1542 the Lough was fixed as the Eastern boundary of Tyrone in the Patent of Henry VIII. to Con O'Neill after Con's acceptance, at Greenwich, of English allegiance. When that Patent was renewed by James I. to Hugh O'Neill in 1603, the same landmarks were maintained. On the opposite side dwelt the Claneboy O'Neills; but, beyond their shore-fishings and those of the monks, they laid no claim to it. Their Patent of 30th March, 1587, is confined to County Down, and makes no mention of Lough Neagh. Queen Elizabeth gave Sir Thomas Smith a Charter to conquer East Ulster in 1571, but the Lough was not included in his grant.

The limits of tribal ownership were at all times acutely studied; and to interfere with them without provocation or legal excuse, once peace was established, would arouse angry protests and appeals to the Throne. It was plain, moreover, that, whether English Law or Brehon Law prevailed, there was no one against whom a forfeiture could be enforced for Lough Neagh as a whole.

Inconvenient as this was for the official despoiler, with his nice sense of quiddities, Sir Arthur saw its usefulness from another point of view, since no great owner would suffer if a confiscation were carried out. On this basis he laid his plans. Queen Elizabeth, during her nine years' struggle for supremacy, had established war-boats on Lough Neagh, from which O'Neill's territory was raided. The crews hindered the natives from fishing when their kine and corn were destroyed; and, after famine had enforced peace, the galleys were ordered to be kept serviceable. Hugh Clotworthy, one of Chichester's warriors, remained in charge of them, and received from Sir Arthur the lands of Massereene, near the shore, out of his own grant, at a cheap rate. He calculated that, with proper backing, Lough Neagh might be put under his "command" as Governor of Carrickfergus, and that on this foundation a beginning might be made from which ownership could be built up. The Lord Lieutenant was not privy to this purpose; and had never conceived such an annexation, even for his own benefit. He would have been staggered by its audacity in a subordinate, but he unwittingly helped to bring about what Chichester sought.

It has been told that on his visit to Court with the subjugated Earls, Devonshire secured Sir Arthur's life appointment as Governor of Carrickfergus, with a gift of the property lying between the Castles of Carrickfergus and Belfast. This served as a basis from which Chichester operated. Most of these lands had been awarded to Sir Ralph Lane, Muster-Master-General to Queen Elizabeth, under a "custodium"

(or lease) of 1598. They included Belfast Castle, with its adjacent fishery of the Lagan, and other valuable perquisites. Large areas comprised in the grant had, in Lane's day, to be won from the natives; and in 1603 the rightful owner, Sir Con O'Neill, was held prisoner in Carrickfergus Castle by Chichester on a charge of treason invented with a view to stealing what remained of his property.

Before Sir Con could be brought to trial he escaped to Scotland; and, Lane being displaced, everything in the "custodium" was given to Chichester. The King's Letter of the 8th August, 1603, ordered his grant to be made rent free in perpetuity. Thus the soil on which the City of Belfast now stands, under the name of "the Fall, Mylone, and the Tuogh called the Sinament," fell to a penniless freebooter with scantier ritual than would to-day mark the transfer of an acre from an African savage.

This recognition of Sir Arthur's merits, though princely, left him ungrateful. On the 23rd August, 1603, he wrote Cecil pretending that the King's Letter had been "by the learned counsel found defective," and praying that "some other to better purpose may be signed by his Majesty." He did not disclose what was amiss with the Letter, or that its only "defect" was that it did not authorise what he coveted. The help of the vulnerable Viceroy was also enlisted, but to him the plea put forward was that the Letter "was not so ample as his Majesty intended." Without awaiting Cecil's reply Chichester stretched the Letter by taking out two Patents, in each of which he inserted grants greater than his Majesty had sanctioned.

In the first Patent, dealing with Belfast, issued on the 10th September, 1603, he included the entire of the river Lagan, although the fishing at the Castle alone was given him. The second, relating to the Carrickfergus Governorship, he enlarged by a still more daring addition. The original of either Patent is no longer available, as they were first con-

cealed, and then cancelled; but from those substituted for them the conclusion is irresistible that they swept the "command" of Lough Neagh into his hands. So glaring were their excesses that Sir Arthur shrank from enrolling them lest a comparison between their text and the King's Letter, on which they purported to be based, should shock inquiring minds. The King's Letter then (as now) lay in the custody of the Master of the Rolls.

Davies' arrival in Dublin in November, 1603, proved a godsend to all jobbers. The new Solicitor-General brought the latest London gossip of the extravagant largesse of the Scotch King and Queen, and of the Lord Lieutenant's careless amours. This intelligence and his lawcraft lent aid to Sir Arthur's purposes and shaped his methods. The system under which swollen grants were called into being for the profit of needy favourites had already been set in full swing; and Davies knew that the absentee Viceroy was not squeamish about the scope of the Patents taken out by his brothers-in-arms. The Solicitor-General framed himself to that situation. The entanglement with Lady Rich made the Lord Lieutenant reluctant to return to Ireland, and the delicacy of his position was becoming notorious. Davies saw its weakness, and discerned in Chichester a kindred spirit and a rising power.

Before long their interchanges resulted in a dashing expedient. Underlying the application for the new Letter lurked the design to make it cover a Patent bulking the "command" at Carrickfergus with a right over Lough Neagh. If the scheme prospered, the concealed Patents could afterwards be destroyed; and, as they were not enrolled, legal proof of malpractice in framing them would also disappear. This plan bore upon its face the stamp of Davies' mint.

Cecil was favourable to Sir Arthur, and the Lord Lieutenant doubtless reflected that to extend his "command" to embrace Lough Neagh would only increase his

responsibility without enriching his estate or enlarging his pay. They, therefore, furthered Chichester's petition without troubling as to the purpose to which an "amended" King's Letter might be turned. In the first profuse year of the Stuart regime, small scrutiny was spent by James I. on requests of this kind. Once Devonshire and Cecil backed up a suppliant's prayer, no difficulty was made in yielding it. His Majesty accordingly, on the 29th December, 1603, consented to sign a second Letter; and thereby became anew the victim of servitors who prostituted regal forms to corrupt ends.

The difference between the first and second King's Letter related chiefly to the "command" of Lough Neagh; but that difference enabled the craftsmen to effect a far-reaching extension of the Patent it authorised. The "amended" Letter was drawn to invest Chichester with "the government of Carrickfergus and of all other forts, places, and commands, with the Lough Neagh and the commodities thereof mentioned in our Letters Patent formerly granted unto him, together with the fee of 13s. 4d. by the day, for the term of his natural life." This phraseology shows that although Lough Neagh had never been mentioned in the first King's Letter, a patent was founded on it which illegally dealt with the Lough.

On the strength of the new Letter, the rogues minted a fresh Patent on the 9th May, 1604. This revealed the original design and reeked with every kind of illegality. Having declared Chichester "Colonel and Governor of our forces at Carrickfergus," with the fee of 13s. 4d. a day for life, it created him "Admiral and Commander-in-Chief of Lough Neagh for the disposal of all shipping and boats thereon." There was daring in that, but a greater marvel followed, for the Patent thievishly went on to confer on him "the fishing of the said Lough as far as the Salmon Leap in the River of the Bann." In other words, it annexed to the command at Car-

rickfergus a life estate in the fishery of Lough Neagh and the Bann. This was a stupendous encroachment on the nature and limits of the grant sanctioned by the King. To transform a military "command" into the gift of a huge fishery, and adjoin thereto the rank of "Admiral," was a masterpiece of perversion. The English Crown had never laid claim to the waters so purloined. James I. did not mean to give them away; and had neither power nor right to do so. The feigned dignity of "Admiral and Commander-in-Chief of Lough Neagh" was usurped to mask a material advantage, and its author vainly tried afterwards to confirm his shaky title by dubbing the lake "Lough Chichester." The mock baptism was as scornfully rejected by the natives as his piratical claim of ownership.

No inquisition had been held (as the law required) to establish the right to make the Patent. Nor did any official notification of it apprise the Crown or the public of what had been done. A spell of black magic transmuted a military appointment into a life estate in the richest fishery in Ulster, and attached thereto a bogus "Admiralty."

Uglier even than the uncanny graft on the "command" at Carrickfergus was Sir Arthur's crookedness as to the Bann. The river was nowhere mentioned in either King's Letter from first to last; yet the new Patent captured it for Chichester. Ecclesiastics as well as laymen owned the stream on either bank. It belonged to Hugh O'Neill in part, to Sir Randal McDonnell in part, to the Bishop of Derry, to the Bishop of Down and Connor, and other magnates. They never learnt till too late that, by imposing the Great Seal on skins of vellum, Sir Arthur had stolen their property. The fresh-water "Admiral" kept his scrivenry secret until its victims were powerless and his sway assured. His day was coming; and the spirit in which he trampled down public and private ownership proves that the embittered captains of Elizabeth never intended to respect the treaties of peace which heralded the

dawn of the Stuart reign. Chichester had as little compunction in thwarting the policy of James I. as in stripping chiefs and clansmen of their acres.

To baffle research as to his misdeeds, he inserted a proviso in the Patents of 1604 declaring that those of 1603 should be annulled before their substitutes were sealed. He had cunningly left them unenrolled, lest their contents should rise up in judgment against him, and thus they were for ever withheld from scrutiny and subtracted from the archives of the State. Knowledge of them is derived only from the King's Letter and recitals in the Patents of 1604. The germ of the stranger's claim to Lough Neagh and the Bann, thus clandestinely called into being, animates the unnatural pedigree of the Chichester title. In no essay of his descendants to trace it back through the centuries to some legitimate source, nor in their lawsuits to maintain a hold on what he filched, are the Patents of 1603-4 ever mentioned. In no legal proceedings concerning the Bann or Lough Neagh (and they were frequent) was the pretenced life-estate ever relied on or referred to. A modern affidavit, which boasts a complete and accurate enumeration of the grants, piously avers that the first was issued in 1606, and suppresses those of 1603-4. The guilt-dyed originals were left buried out of sight, as if no tell-tale ghosts haunted the Record Office. Yet they represented the fairest flower of the handicraft which typified the majesty of the law in Ireland when the Brehon Code was overthrown.

They were fabricated on the eve of Chichester's promotion from Carrickfergus to Dublin Castle, for his elevation to the Deputyship was at hand; and on the threshold of his greatness this brace of parchments exhibits him reeking in the mire of duplicity and ingratitude. He requited James I. for the gift of a lordly recompense by manifold falsehoods and fabrications. The whole River Lagan was snatched instead of a mere fishing-reach at Belfast Castle. The "command" of Lough Neagh was assumed without sanction

under an unenrolled Patent. The misrepresentation that his grants "were not so ample as his Majesty intended" begot a fresh King's Letter to furbish title to that coveted command. By warping the Royal Warrant he endowed himself with the honour of "Admiral and Commander-in-Chief" in his watery jurisdiction, plus a life-estate in the fisheries of a great inland sea. Unsated by this immensity, he absorbed long leagues of the River Bann, the property of high-placed chieftains and unoffending prelates, in defiance of treaty and law. To crown all, an intrigue to gain the Deputyship was entered upon, to complete the work so masterfully begun.

The development of his "life-estate" into the full-blown perfection of the Fee Simple took years to accomplish and much ministering sleight-of-hand. In the process legal conjuring and covin more astounding than that which ushered in its illegitimate birth briskly unfold themselves. Toadies of Chichester depict him as a Christian of deep religious fervour. A hypocrite by habit, a churl by nature, and a thief by instinct he took care that his deceptions should not be easily unravelled. The consequences of the "amended" Letter, which the 'prentice Monarch of the United Kingdom was befooled into signing, reach down into a far futurity.

CHAPTER III.

CHICHESTER, DEPUTY.

At the outset of the Earl of Devonshire's wooings, his Deputy in Dublin was one Cary, Treasurer at War. Cary, in comparison with his confederates, was a mere pedlar in villainy. As Treasurer at War he drew forged Bills of Exchange and passed off false moneys dexterously enough; but as Deputy he showed himself unskilled in the mystery of annexing broad acres by sealed sheepskins. Cary was ill-regarded by Chichester, who from his eyrie in Carrickfergus sped into England sly narratives of his misdeeds. Filled with remorse for his colleague's sins, Sir Arthur humbly insinuated his own merits. Devonshire and Cecil were on the side of the cunning penman, and submitted his reports to the King. An inquiry into his charges was held, and although Cary's audited accounts were found in order he was recalled. Then Chichester with great show of reluctance allowed himself to be installed in the vacant place.

On being invested with the "Sword of State" he displayed a rapacity in keeping with his increased power, but the more he robbed the Crown the more redolent of loyalty and piety grew his dispatches. He had written of Cary words which quickly waxed applicable to himself:—"The Deputy made such a hand of enriching himself in this land, as the like was never done by any other that supplied the place." He marked down the pardoned Ulster Chieftains as his especial prey. Upon their possessions he had long cast envious eyes, and with cold watchfulness he set himself to weave a web around them.

Hugh O'Neill, Earl of Tyrone, after three months at Court, had, on the 11th September, 1603, secured from James I. an order for the "restoration in blood" by Act of Parliament of himself and his brothers, and the re-grant of their lands by Patent. The King wished a Parliament to be summoned so that the Irish Princes and people should universally enjoy (for the first time) the protection of English Law. Two documents published in the year of his accession attest in this particular the statesmanship of the Stuart. Yet no Parliament was called, nor did any Patent issue in favour of the Chiefs from the Dublin fount of grants whose parchments alone a crafty Executive treated as binding. In the words of a Spanish Don, O'Neill and his comrades were "a very simple sort of men." They had Latin pat, but little skill in lawcraft. Their warlike prowess won European renown, but they were easily outmatched in legal tourney. Despite Royal pardon, Royal parchments, and Royal promises, the Earls O'Neill and O'Donnell and their titles were blotted out within less than five years of the Treaty of Peace by the relentless Devonian.

Shortly after Chichester became Deputy (February, 1605) there appeared before him a Scottish suitor bearing "King's Letters" entitling him to unexpected bounties. Their magnitude astonished the "Admiral of Lough Neagh." At first he gibed at the stranger and thwarted his projects. Then he trounced him in letters of alarm to Cecil. The nature of the replies he received, however, was not encouraging. For Sir Arthur had to do with a Royal favourite—James Hamilton—reputed to be a mighty hunter of holes in other men's grants. The son of a clergyman at Ayr, Hamilton during Elizabeth's reign, served the Scottish Crown as a spy both in Ireland and England. His career is a romance of the Fee-Simple, and he ended his days as a Peer of the Realm, owning, as Lord Claneboy, an estate in Ulster and elsewhere as extensive as the greediest of the

freebooters. In his youth Hamilton was a Scholar of Dublin University, which was then newly founded by Queen Elizabeth on lands seized from St. Mary's Abbey. Afterwards he kept a Latin School near Dublin Castle with James Fullerton, and the pair acted as intelligencers for the Scottish Crown.

When the Tudor Dynasty was drawing to an end he hired himself to quest for the King of Scots on perilous errands to and fro between the Three Kingdoms. Finally he took pay from both Crowns, and after Elizabeth's death the favour of James was his rich endowment. A subtle devisor of pretexts to bring about a lapse in the Patents of others, he often succeeded in persuading the King that the forfeits should fall to "discoverers" like himself. Such rewards cost his Majesty little, and the Ayrshireman's influence and wealth grew apace.

Upon the Stuart Accession, Hamilton was entrusted with the task of pleading at Court the claim of the heirs of Sir Thomas Smith (Elizabeth's Latin Secretary) to the lands of Claneboy. The Queen's Charter of ~~1572~~ offered a large slice of East Ulster to Smith and his bastard son to encourage a warlike expedition against the eastern branch of the O'Neills. In pushing the raid, Smith's son was killed, and this brought the adventure and the Charter to an end. When Ireland was subdued in 1603 the Smith family petitioned (in view of their sacrifices thirty years earlier) that the lapsed Charter should be revived in their favour, and Hamilton was hired to press their suit on the King. His retainer proved unprosperous: the Smiths got nothing, but their advocate managed to acquire the bulk of the property for himself. At this result cries of "treachery" arose from the disappointed Smiths, yet no one wasted a thought on the fate of the real owners, the O'Neills of Claneboy.

From Tudor times this branch of the O'Neills had been loyal to the Crown, but were afterwards found to be rather in the way. Holding choice spots of strength, they saw their possessions raided by those whom they had served. After

James I. came to the throne, Chichester seized whatever part of their lands he chose to think fell within Sir Ralph Lane's "custodium." He had, as already mentioned, imprisoned Sir Con O'Neill; and the rage he felt when that chief escaped from his clutches was intensified on Hamilton's arrival with the news of his pardon and King's Letters for a Patent of his property. The O'Neills had dwelt a thousand years in Claneboy; but the Deputy was indignant that a rival should forestall him in spoliation, and avail of his own procedure to work it out.

Sir Con's downfall came about because, being minded to import wine into the harbour at Carrickfergus, the garrison there looted it on the way to his cellars, and his servant killed one of the soldiers in a hasty affray in 1602. The chief and his retainers had been in the pay and service of Queen Elizabeth since 1600, yet this scuffle Chichester dubbed "treason." Instead of punishing the thieves he attacked the owner of the wine, and Sir Con's life and lands were put in jeopardy. He was arrested, thrust into a cell in Carrickfergus Castle, and tried as a rebel by "office of inquest" before the Provost-Marshal. There had been no Provost-Marshal at Carrickfergus in Elizabeth's reign; and, in order to do service on Sir Con, Chichester got leave, on the 30th August, 1603, to appoint one. He and the Ulster Earls were then in London, and before Con could be executed he escaped from the Castle. A Scotch laird, Sir Hugh Montgomery, helped him to fly, and had him ferried across the narrow strait between Carrickfergus and Scotland. The Laird was brother to the new Court Chaplain under James I., the Rev. George Montgomery. To London he took Sir Con to see the reverend favourite and secure a Stuart pardon. O'Neill promised him a large fee, no less than half his estate, as the price of "forgiveness."

When they arrived at Court the suppliants encountered the ex-spy, Sir James Fullerton, brimful of craft and

watchful of chances. He was the old comrade of Hamilton, and contrived a turn for him out of Sir Con's distress. His influence was such that the King only granted the "pardon" on condition that the chief's bargain with Montgomery should be recast and a third of his estate given to Hamilton. O'Neill was kept dangling about the Court for over a year before this composition was arrived at. Thus the chief was shorn of two-thirds of his lands instead of half, as the price of "mercy." To temper the loss to Montgomery the King promised to throw in as many abbeys and monasteries as would make it good, but Sir Con had to submit to the condition that the new Patent should be made out in Hamilton's name and accept his promise to assign a third to himself and Montgomery. Such was Fullerton's fealty to his brother-spy. At his death Fullerton was honoured with a grave in Westminster Abbey.

By such help James Hamilton won a lodgment in Ulster. He at once hastened to Dublin, and presented two King's Letters to the Deputy. One of them, dated the 16th April, 1605, entitled him to the entire of Sir Con's property, while another of the 6th December, 1604, gave him land (unspecified) to the value of £100 a year. These warrants startled Chichester, who had expected to make his own of the whole of O'Neill's possessions. In his eyes they revealed a woeful situation, for they conferred on an outsider "of his Majesty's gift the countries and territories of Upper Clandeboye and the Great Ardes." This manner of looting O'Neill fell out with his plans—a stranger had struck sickle in the corn he had sown.

Hamilton's second grant of £100 a year was framed on the elastic "Wakeman" model, and surpassed it in the romance of its origin. In his impoverished Elizabethan days the spy used when he came to London put up at the "Half-Moon" Tavern in Bow Lane. It was a house of call for Scotchmen; and the landlord, Thomas Irelande, hailed

from "the North Countrie." At that date the Scotch were by Statute the "ancient enemies" of the English; but Hamilton, while acting as a scout for the Scots, was also in the pay of England. When James I. reached the throne he cannot have suspected this, and his Letter of the 6th December, 1604, with other gifts, attests his gratitude.

Suitors for King's Letters who wished to baffle inquiry or avert jealousy often put forward some "John Doe" or "Richard Roe" as a feigned beneficiary (as the Earl of Devonshire did) to mask grants intended for themselves. Hamilton preferred that the name of his innkeeper should appear in the royal Letter instead of his own. He had, on the 6th November, 1603, and 18th May, 1604, been given a valuable monopoly for the export of linen yarn from Ireland, and may have thought it would be easier or more speedy to obtain further grants if he remained in disguise rather than appear as the original beneficiary. Whatever his motive, he showed himself as skilful as higher personages in employing the machinery for juggling with Patents. The name of the Innkeeper, Thomas Irelande, chosen for insertion as the nominal Patentee, corresponded with that of another "Thomas Ireland," an escheator of Queen Elizabeth's reign, who might be looked on as the grantee by those who did not burrow too deeply below the surface.

Figments were recited about Thomas Irelande in the King's Letter which rival those palmed off on James I. by the Lord Lieutenant in the case of John Wakeman. Its text made his Majesty certify that the tapster of the "Half-Moon" had paid into the Exchequer £1,678 6s. 8d., but whether before or after he came to the throne of England was not stated; and that, as a recompense, Thomas Irelande was to receive an estate worth £100 a year "out of such castles, manors, etc., as came to the Crown by forfeiture, attainder, etc." The Privy Council had just ordered the Irish Executive not to part with any such "castles."

In the year 1604 the sum of £1,678 6s. 8d. would represent nearly £20,000 in to-day's values. This a humble innkeeper is supposed to have presented to the Exchequer without security or interest—an unexplained and un-Scottish caprice. To have had such command of money, Thomas Irelande must have amassed a fortune out of the tavern "where Scotsmen lie"; although in Elizabeth's reign no large muster of Scots from whom it could derive custom repaired to London. A Census of Foreigners in 1567 shows that there were only 40 resident Scotchmen in the metropolis, as compared with 472 Frenchmen and 2,030 Dutch. So the Bow Lane philanthropist must have been as lucky under the Tudors as he was lavish under the Stuarts.

His Majesty was in the habit of borrowing money wherever he could lay hands on it. He took loans from Hugh O'Neill and never repaid them. He also laid himself under obligation to wealthy London citizens; but these were personal debts; and the landlord of the "Half-Moon" is not alleged to have made the King a private loan, but to have lodged cash in the public Exchequer. His place of abode is not mentioned in the King's Letter, where his innkeepership is disguised by misdescribing him as a "merchant."

The oddest part of the transaction has now to be recorded. Having poured his largesse into the royal coffers, the tapster's openhandedness sought a fresh outlet. With boundless disregard for bawbees, Thomas Irelande made over to Hamilton the grant of £100 a year which had cost him £1,678 6s. 8d. This was expressed to be done "for divers good considerations"—that being the common form for a voluntary conveyance. In other words, he gave a valuable property away for nothing. Few London hotel-keepers now endow their guests in that way. These goodly giants of the prime are alas extinct.

Hamilton, armed with his landlord's conveyance and the grant of Sir Con O'Neill's estate (in trust as to two-thirds),

pressed the Deputy for Patents to validate them. Legally his demand was irresistible; but Chichester's righthand men, led by Sir William Parsons (the Surveyor-General), shared his reluctance to "passing" a grant so extensive. They, like their master, felt wounded that an intruder should try to carry off booty larger than any seized by the Lord Lieutenant or the other Elizabethan warriors.

What was to be done? A blank refusal to honour the King's warrant was impossible, so they temporised and parleyed with Hamilton. Meanwhile, the Deputy, smarting at the loss of the hoped-for escheat from Sir Con (whom he would gladly have hanged), poured out his soul in protest to Cecil. He wrote on the 19th June, 1605:—

"The King's grants daily increase. There is come hither one Mr. James Hamilton with two Letters from the King: one containing a gift of £100 land in fee-farm, in the name of Thomas Irelande; the other for passing to him the Great Ardes or Upper Claneboy—by virtue of which words, if he have his desires, he will have more lands than the greatest lords in this kingdom, and all is given in free and common soccage, whereby his Majesty's tenures are lost and everywhere abridged. If copies of these letters be called for the grants will be found to be extraordinary.

"When I was in England, it pleased the King, by your means, to bestow on me the Castle of Belfast and other lands adjoining. I have passed it twice, and as yet I understand by this gentleman—who, it seems, has sought all the records—there are some questions may be made thereon, by reason of some grants made long since to Sir Thomas Smith. For albeit that deed be of no force, yet, not being so found void in the 'office,' as the records of those deeds were not in this Kingdom, I am subject to some danger. I pray, therefore, that one Letter more may be granted to me for re-passing the same." While awaiting Cecil's reply, Chichester, on the 26th June, 1605, appointed a Commission of his most trusted officials and cronies

to hold Inquisitions preliminary to any grant being made. so that by a rigid enforcement of the Patent laws (hitherto ignored), Hamilton should not get a rood of land or a rill of water to which he was not strictly entitled. The scope of the Commission was severely limited to the text of the King's Letters which Hamilton presented, and the persons appointed to execute it were:—

Nicholas Kerdiff, Serjeant-at-Law,
Sir Charles Calthorp, Attorney-General,
William Parsons, Surveyor-General,
Nicholas Kenney, Escheator-General.
John Dalway of Carrickfergus,
Robert Barnwall,
and
Laurence Masterson.

Of these, the three last, with Parsons, alone acted, and they sat to hold Inquisitions at Ardwhin, Co. Down (recte Ardquin), on the 5th July, 1605, and in the town of Antrim on the 12th July, 1605. They were commissioned to ascertain what lands Sir Con O'Neill and his father, Brian Fertagh, were possessed of in Upper Claneboy and the Great Ardes, with the rents and "cuttings" to which they were subject. Their other duty was to discover what property in the Counties of Antrim and Down should have come to the Crown by attainder or forfeiture, so that the £100 a year granted to Thomas Irelande might be provided thereout. The verdict then found took shape in a return, which was put to such an illegitimate use that it was not enrolled for 79 years, lest its terms should leak out.

For by the time the Commissioners had completed their labours and returned to Dublin, Cecil silenced the murmurings of the Deputy, and counselled him to come to an understanding with Hamilton. The "one Letter more" never was signed, for the policy recommended from London made it unnecessary. Cecil having, in 1599, promoted Chichester to the Irish command, acted as his protector ever after. He used lovingly dub

him "poor Arthur," but "poor Arthur's" appeal against Hamilton made too large a draft on his power. Instead of procuring a fresh King's Letter he evidently warned him to make terms with the royal favourite, for within a month the Deputy treated "the Scot" as a bosom friend. The Antrim Inquisition was then availed of, with the aid of the ductile Parsons, as the groundwork of an enormous grant to Hamilton, who arranged to hand over a large slice of the plunder to the Deputy. This dispensed Cecil from having to beseech James I. for another "Letter" for Chichester, and from that forth a working partnership was established between the Deputy and Hamilton. This alliance in ill-doing linked them for life. Backed by Davies, and with the help of the Lord Chancellor (Jones, Archbishop of Dublin—called that "rascal Jones" by Dean Swift), they organised a conspiracy to cheat the State unmatched in Anglo-Irish annals.

CHAPTER IV.

AN EVIL PARTNERSHIP.

THE system applied by Chichester to hoodwink the Crown and defraud the subject went undetected for years. It consisted in availing of spent King's Letters, and issuing Patents upon them afresh—in many cases to an extent enormously beyond the powers originally contemplated. In this way the Ulster fisheries were annexed; and equally lawless appropriations were made in nearly every county. Where fishings were concerned, the Deputy's maw was insatiable. Until the Stuart era, Hugh O'Neill and Sir Randal MacDonnell largely controlled the Bann; O'Donnell and O'Doherty Lough Foyle; and Maguire Lough Erne. The Lagan had been included by Sir Arthur in his Patents of 1603-4; when his scriveners conferred on him a life-estate in Lough Neagh and the Bann, with the title of Admiral. Upon taking Hamilton into partnership he treated his own Patents for both the Lagan and Lough Neagh as worthless, and prepared fresh dispositions.

His old comrade, Captain Thomas Phillips, was commander of the fort at Toome (where the Bann issues from Lough Neagh), and had been allowed to become tenant of the fishery at Coleraine belonging to Sir Randal MacDonnell (afterwards Earl of Antrim). Sir Randal was brother-in-law of Hugh O'Neill, and had supported him in the war against Elizabeth. Chichester nourished an implacable hatred of MacDonnell and his clan, because in 1597 they defeated his brother, Sir John Chichester, and beheaded him. During O'Neill's revolt he tried to get Sir James MacDonnell, Randal's brother, poisoned; and used to write of Randal to Cecil as "MacSorley," in order to recall the feud of his father,

Sorley Bwee, with the Queen. The MacDonnells, as Lords of the Isles, were Scottish as well as Irish chieftains, and of old blood. King James was hardly six weeks on the united Thrones when he confirmed Sir Randal's estate of 333,000 acres in County Antrim. This area MacDonnell occupied by ancient conquest; but the legal recognition of his ownership was hateful to Chichester, who planned to make the rival Scottish favourite the instrument of his revenge.

Hamilton, being a stranger, needed a backer in the North, and one having local knowledge. For this service Captain Phillips was well fitted, and his price had to be paid. At the outset the Deputy provided for it by stripping the Crown of stray escheats from the monks. Then, on the 20th July, 1605, he issued to Hamilton, under the Thomas Irelande Letter, a Patent for the Abbey of Coleraine, with the monastery fishing in the Bann. Along with this went much other spoil, lay and ecclesiastical, such as the Manor of Moygare, in Meath, with several rectories, tithes and manors in Kildare, Queen's County, Down, and Antrim. The rent reserved to the Crown for this was only £54 1s. 1d., and Cecil was advised that Hamilton, on the 23rd September, 1605, had transferred to Captain Phillips the Abbey of Coleraine with the fishery. So splendid a gift was no small handsel from one who was himself entitled to receive only "the value of £100 a year." It was intended as a "retainer" to Phillips to blood him for an intended attack on Sir Randal.

Though the tap of the "Half-Moon" had poured much wealth into Hamilton's maw it left his thirst unslaked, and the exhausted warrant to John Wakeman, which had lain fallow for over a year, was next prepared for action. To employ it, the co-operation of Sir Richard Cooke, the Secretary of State, was needed, as, by a "power of attorney" from Wakeman in 1604, Cooke was entrusted to "sue out" grants under it on Devonshire's behalf. Chichester feared to make use of Cooke. He wished for a more pliable nominee, who

would consent to deceive the Lord Lieutenant as well as the King. Whether Wakeman agreed to this, or whether his name was abused, is uncertain; but an altered "power of attorney," dated the 21st October, 1605, was put forth, purporting to have been executed by Wakeman, in which Mr. James Ware, Auditor for "martial causes," figures instead of Cooke. No honest reason for such a change (inside a year) can be imagined; and by this means the Auditor, whose office was intended to check corruption, was enlisted for the corrupt obtainment of grants. Before availing of Ware's help, the Deputy issued to Hamilton, on the 5th November, 1605, a Patent for Sir Con O'Neill's estate—two thirds of which was afterwards re-conveyed to Montgomery and its true owner. In this (as part of the process of mystification) was included a grant of "the whole fishing of the River Lagan," which Chichester had snatched for himself in his Patents of 1603-4. He gave it to Hamilton only by way of conferring valid title to it on a stranger, intending subsequently to secure a transfer to himself. Thus one branch of the 1603-4 illegality was vested with seemly raiment.

At this time the Gunpowder Plot shook England, and emboldened in guile the officials entrusted with the administration of Ireland. Trumpeting a tale of Popish treason, the action of Guy Fawkes and his gang deafened the ears of the King to the complaints of Irish Catholics. Whatever lingering tenderness James might have retained for them the Plot whiffed away. The severe measures which it excused gave Chichester a larger command of power; and he used it to advance his grasping policy. Having the Auditor-General in his pocket, he soon prepared a dazzling stroke. The self-styled "Admiral," who purported to have received in 1604 a life-estate in the fisheries of Lough Neagh and the Bann, gave them to Hamilton by Patent in derogation of his own rights, on the 14th February, 1606. Using the Thomas Irelande Letter as his authority, he presented "the

Scot" with these coveted waters in fee simple, and included in the grant gigantic stretches of territory in Antrim, Down, Carlow, and Roscommon, as well as a couple of abbeys and the advowsons of half-a-dozen rectories. All was done in alleged compliance with a warrant entitling its possessor to £100 a year. A haul so comprehensive seldom weighted a single Patent. To-day it would be worth a million of money. No Inquisition warranted this, and there was nothing to show that the property belonged to the Crown, but by Parsons' dexterity the Inquisition at Antrim of the 12th July, 1605, was made to serve as a shaky foundation for what was done, although the Commission authorising the inquiry confined it to the estate of Con O'Neill and to "concealed" lands to provide for Thomas Irelande's £100. The Inquisition was then carefully tucked away, and lay in concealment nearly eighty years, while the Commission is defaced in a style unusual amongst the records of the period.

The inclusion in Hamilton's Patent of Lough Neagh and the Bann exposes the hollowness of their pretenced donation for the Deputy's life in 1604. Had Chichester's Patent been a reality, why should he abandon them to Hamilton two years later without even paying the existence of his life-estate the compliment of a "recital" in the Inquisition over which his creature Parsons presided? It was the counterpart of his device as to the River Lagan which he at the same time made over to Hamilton with a like understanding as to its being reconveyed to himself with, as he hoped, a less infirm title.

The mystery of this multiplied munificence is soon told, for Chichester forthwith took a conveyance of the entire property from Hamilton without a blush. The assignment to him was not enrolled or published, and was kept a close secret. The system of privily transferring property had not yet been made illegal in Ireland, although in England, by the Statute of Uses, Henry VIII. forbade "covinous" or furtive

parchments. Not until Strafford's Viceroyalty, when Chichester's malpractices stood partly revealed, was the wholesome English law applied to Ireland in 1634.

Having swallowed Lough Neagh and the Bann, with other huge expanses, the Deputy showed that he and his confederate were not men to make two bites of a cherry. The tidal fishing of the Bann remained ungrabbed; and to capture it the Auditor-General proved invaluable. This reach of the river stood "in charge" as Crown property in the books of the Exchequer; and was leased to Sir William Godolphin at £10 a year. As Wakeman's attorney Ware immediately "sued out" a grant of the tidal fishery. The transfer was graciously sanctioned by the Deputy; and next day Ware made it over to Hamilton (3rd March, 1606).

The tidal Bann was officially described by Sir John Davies as Crown estate, and especially valuable. Yet the Auditor-General treated it as a trifle which an exhausted King's Letter might smuggle to a stranger, with himself as conduit-pipe. By these expedients, Lough Neagh and the Bann (tidal and non-tidal) were made away with—so far as parchment and sealing-wax could do it. Ware was rewarded for his accommodating ways by sundry emoluments and perquisites, and was also graced with a knighthood.

His "power of attorney" was next availed of to generate a fresh litter of Patents as monstrous as those previously begotten on the spent Letter to Thomas Irelande. Ware knew, when Wakeman's warrant was abused for the third time, that its efficacy was dead. He had been Auditor-General since the 6th September, 1603, and was empowered when appointed "to search the records in the Auditor's office"; so he cannot have been ignorant of the bloated grants passed under it in 1604. He must also have felt, when Sir Richard Cooke was set aside within a year and himself substituted as a recipient, that the change portended a baleful purpose.

CHAPTER V.

A VICEROY'S LAST WILL AND TESTAMENT.

If any interest in Wakeman's Letter lingered, grants under it would belong, not to Hamilton or Chichester, but to the Lord Lieutenant. That lovesick absentee was now on his honeymoon in England. He had of late mysteriously begun to fail in health; so his underlings thought some additional risk might be taken. That Wakeman was privy to cheating his master is hard to believe. Ware certainly was; and it is more than probable that the power of attorney, which purported to substitute him for Sir Richard Cooke, was a counterfeit. True, it was enrolled, but enrolments during the Stuart epoch, when forgery was a fine art, are not trustworthy. They can no more be accepted without corroboration as proof of the existence of genuine deeds than those of the Puritans. It is significant, too, that Cooke afterwards became one of the Deputy's severest critics.

Vast as were the annexations so effected, the artificers remained unglutted. On the 13th March, 1606, they again plied the Thomas Irelande Letter, and a Patent was issued under it to Hamilton of lands in six counties—Meath, Queen's, Wexford, Mayo, Galway, and Dublin. Four days later (17th March, 1606) by a fifth Patent, a few Westmeath castles were thrown in. On the 11th April, 1606, they shifted back to the Wakeman Letter; and by its potency Hamilton received a Patent of the Customs of Down and Antrim.

None of the Patents contains any recital showing how the property so granted was supposed to have come to the Crown. No right existed to confiscate lands without attainder (save those of the monasteries, which vested in the King by Statute).

No great Ulster proprietor had then been attainted. To overleap this obstacle, the Deputy's plan was first to declare the estates to be Hamilton's by Patent, next to obtain an assignment to himself, and lastly to discover a pretext for hunting the native owners out of the country or out of the world.

On the 3rd April, 1606, a tragic event thrilled England and smote Ireland. It came as a portent athwart a troubled sky to both conquerors and conquered. On that day the Earl of Devonshire died; and his unlooked-for taking-off changed the course of history. The influence of the victor of Kinsale over a prostrate country was not without benignity. He restrained mere vengefulness after O'Neill's surrender in 1603, and bent towardly on the defeated nobles. The new Court in London he despised, and, doubtless, ranked his long-descended antagonists in Ulster high above the rabble who infested Whitehall or "Tibbald's" to importune scullions for writs to plunder.

Between 1603 and 1606 the absentee Lord Lieutenant advised the Privy Council on Irish affairs; and, by correspondence with his subordinates, loosely governed Ireland. He befriended Hugh O'Neill, and his death left the Earl without a protector at Court, where Chichester sought to instil poison against the Ulster lords, in order to forfeit their territories for his own benefit. Devonshire had, a few months before his death, gone through a form of marriage with Lady Rich, greatly to the King's displeasure. The ceremony was performed by his chaplain, Laud—who afterwards perished on the scaffold under Charles I. as Archbishop. Devonshire's will (signed the day before he died) shows plainly that he was party to the unmiraculous multiplication of loaves and fishes by the Patent-mongers.

The frame of the will (a long Latin document) makes it evident that he was ignorant of the giving of the power-of-attorney by Wakeman to Auditor Ware to enable Hamilton

to annex the tidal Bann. One of the executors, Sir William Godolphin, was the lessee of that fishery from the Crown under a demise made during the rebellion in 1600; and he would hardly have kept silent had he learnt of the making of a grant which might affect his lease. The will appointed John Wakeman and John King "trustees" to enable Lady Rich to receive "the residue" of grants to which they were entitled under the King's Letter, though that was already long exhausted. This was an ugly disclosure to appear in the hurried will of a dying Statesman, for it made plain that the intent of the King's Letter to recoup "money paid to an ancient and well-deserving servant in Scotland" was a mere device to benefit the Lord Lieutenant. The appointment of Cecil as one of the executors revealed the fact that the Secretary of State was also in the secret.

Other Court nobles, including Lord Southampton, the patron of Shakespeare, were named executors, and were thus saddled with notice that the Royal revenues had been made away with, and were to be further embezzled for a misliked woman. Yet they made no protest and asked no questions. This put them all in Chichester's power, and emboldened him in depredation. On the 25th April, 1606, he wrote to Cecil praying that his letters to the late Lord Lieutenant should not be allowed to fall into the hands of any other member of the Privy Council; and that "all my papers" in the dead man's drawers should be taken up by Cecil. This was treating the Secretary of State on the footing of an accomplice, and Devonshire as a fellow-culprit.

Even the Earl's widow became the victim of Chichester's rapine. Bequeathed everything springing from the Royal Letters to John Wakeman and John King, she received nothing after her husband's death. Being out of favour at Court because of her divorce and re-marriage, Lady Rich was further prejudiced by the fact that Devonshire's estate-broking had been furtive and illicit. The Deputy availed of this to

divert the profits from her into his own pocket. Every official knew that the King's Letters mentioned in the will were over-spent, but Devonshire fondly supposed he could rely on them to create grants for her benefit. Chichester tricked the widow, as he had tricked the husband; and kept everything for himself. He even used the death of his patron to saddle him with abuses committed in his own interest.

In Chichester's earlier dispatches after Devonshire's death no coarse suggestion of confiscation directed against the estates of the Ulster lords appears. Ostensibly his sole concern was lest the chiefs (who, as O'Neill complained. could not quaff a cup of wine without chronicles of carouse being sent up by spies to Dublin Castle) should suddenly amass force to overwhelm the might of England. His dispatches are worded to suggest that he could hardly sleep o' nights in his alarmed loyalty for the safety of the kingdom. Diurnally by post he trembled lest scathe should befall the interests of the princely Scotchman whom he loved. He reported every-one who had anything to lose by treason, as hourly engaged in plotting against a benign Sovereign—with a view to pocketing the escheats.

CHAPTER VI.

THE ULSTER LORDS.

HUGH O'NEILL owned in fee the counties now styled Derry and Tyrone, with parts of Armagh and Monaghan. In Elizabeth's reign he tried, after defeating her troops, to bring in King James as Monarch of Ireland; but, when the Scottish ruler came to lawful sway over the Three Kingdoms, the Earl was discerned by Chichester to be an ingrate traitor. O'Neill had just got back his lands by Royal orders after much travail, and had received proof of the clemency of the new King. He was over sixty years of age, and war-worn after a nine years' campaign. Many of his own clan hated him. Yet he was supposed to harbour fierce designs of "rising out" against the son of Mary Stuart, who had re-invested him in his earldom and estate, and to whom he lent money freely. A sheriff's report on his position tells of his weakness, and was thought so important that Sir George Carew made a copy with his own hand:—

"There are certain kindred or septs of the Neales in divers parts of Tyrone, which ever did, and still do, as much as in them lieth, oppose both against Tyrone and all those of his proper sept and party: namely, in the Barony of Strabane, Tirlogh Oge O'Neale, son to Sir Arthur, and all his followers and dependents, as well of the Neales as of the Quins, and likewise of divers other septs on the side of Sluagh Shees. Also in the Barony of Omagh, all that sept of the Neales called the Sluagh Arts do deadly hate Tyrone's sept. And likewise in the Barony of Clogher are two other distinct septs of the Neales, who hate Tyrone and his sept—one of

which septs are the sons of Shane O'Neale and their followers."

How, then, could the weary and beaten head of a sundered clan be engaged in compassing rebellion against a kingly benefactor? The Deputy, to make his insinuations more plausible, called in aid religious prejudices. In an owner so extensive as the Chieftain of Tyrone, Popish superstition must needs lie at the root of Celtic malice, and Chichester wrought much on that string. O'Neill, however, had married a Protestant and accepted the blessing of Bishop Jones, the new-fangled prelate of Meath, when he wedded the sister of the English Marshal Bagnal. He had been brought up at Elizabeth's Court, and was once taunted by the Earl of Essex that "he cared no more for religion than his horse." He attended the Deputy at a Protestant service, when Catholic Palesmen would go no further than the door. He supplied beeves for the royal garrisons in Ulster; readily came up to Councils in Dublin Castle when summoned, accepted the King's Sheriffs, and comported himself submissively as a country gentleman. Chichester even certified that he hanged an unruly nephew who broke the peace in Tyrone; but this was invented merely to show what an unnatural person he was. True or false, the story did not support the suspicion of disloyalty. O'Neill's enormous estate alone gave ground for ranking him with traitors.

Adjoining Tyrone lay the territories of O'Donnell, Earl of Tirconnell, who had been O'Neill's ally in the wars. The fisheries of Lough Foyle were almost as valuable as those of the Bann; and naturally O'Donnell also fell under the Deputy's displeasure. Another ex-rebel, Lord Maguire, owned Fermanagh and swept Lough Erne. There were sub-chiefs besides, equally obnoxious by reason of their possessions. That such owners, who, despite their fluent Latin and Shakesperian English, used the Irish tongue and practised Popery, should be allowed to breathe in their own land was an evident

danger to the State. Wherefore Chichester poured into the King's ear, via Cecil, the leprous distilment of his greed. No overt act could be suggested against the Ulster lords. Their circumspection, after being pardoned and reinstated, was proportioned to their knowledge of the Deputy's unscrupulousness. Chichester boasted that a dog could not bark in the North without his hearing of it, and this was not mere brag. Sheriffs, under-sheriffs, escheators, inquisitors, surveyors, mapsmen, tax-collectors, and tithe-collectors infested the Province. Kinsmen of the beaten chiefs who, in the hope of sharing their estates, had taken the English side, were watchful correspondents of Dublin Castle. When James succeeded Elizabeth, her officers in local forts supplied the necessary rumours of warlike preparations or Spanish descents for London consumption to further the plans of the land-sharks.

Once Chichester was firm in the saddle he resolved, a month after Hamilton conveyed to him the fisheries and territories under the Patent of the 14th February, 1606, to take over also from him one-fourth of the tidal Bann. This he did by assignment of the 14th March, 1606. The "fourth" belonged to Sir Randal MacDonnell, under a Patent of 1603; and the Deputy spent himself in expedients to secure a colour of title for it. He kept the transfer secret until he could invent a device for "legally" relieving MacDonnell of his rights and set on Hamilton, with the help of Captain Phillips, to assail Sir Randal's Patent by a suit in the "Castle Chamber" before himself. All this was done within three years of the grants to O'Neill and MacDonnell, when they must have been fresh in the mind of every official.

The Bann Patents to "the Scot" (under way to Chichester) wronged one or more of at least four persons. On the Antrim side the river belonged partly to Sir Randal MacDonnell and partly to the Bishop of Down and Connor; on the Derry side to the Bishop of Derry and Hugh O'Neill.

The fishing rights of the Bishops were so well-established that when the Reverend George Montgomery received the See of Derry later on, his share in the Bann was admitted by the Deputy, in spite of the adverse Patents he had sanctioned. These grants, therefore, transferred the property of two Bishops and two chieftains to a Scotch interloper on a spent warrant by a secret process. To prevent the facts being unravelled, they were complicated by a tangle of technicality.

Throughout the first half of Sir Arthur's sway, Cecil was Secretary of State. While he lived the Deputy's position was unshakable. Chichester called him his "saint," and reverently worshipped at his shrine. Still, even the hunchback saint's protection could not wholly screen him from danger. He knew that the underground Patents were mere parchment so long as the true owners were left in possession of their domains. To assert them publicly, when no legal forfeiture or escheat had taken place, would give rise to scandal. An appeal to the King must ensue, and the exposure might end in disaster. He, therefore, resolved to fasten the brand of "traitor" on those whose title he had sapped by subterranean conveyances.

An ecclesiastical accomplice was convenient for this work, in view of the "flagrant zeal" for Protestantism affected by James I. Hamilton had helped to get promotion for the Reverend George Montgomery—with whose brother he had partitioned Sir Con O'Neill's estate. That divine was advanced from a Court chaplaincy to the See of Derry, but was loath to risk himself in a troubled diocese. For this he was chidden by Attorney-General Davies, who wished him to come over and preach the Gospel to the clans and chiefs in course of despoilment, so that their distresses might be cheered by the consolations of the new evangel. Three years flew by before the prelate could be persuaded to venture into Erin. When he came he began his mission by a severe survey of the temporalities of the diocese. The richest part of it, the

City of Derry, was a gift from the O'Dohertys to Queen Elizabeth, but it also included large areas within O'Neill's jurisdiction. The devoted Bishop was, therefore, set on to dispute with the Earl the nature and extent of the Church lands in his See. These having heretofore been dedicated to Catholic uses, it is possible that O'Neill was not speedy enough in handing them over to help the spread of Lutheranism.

Nor was the business free from local complications. Before County Derry was shired, it formed part of Tyrone, but lay under the chiefry of the O'Cahans. That sept paid tribute to the O'Neills; and Bishop Montgomery soon learnt of Sir Donal O'Cahan's desire to be freed from contribution to the Earl of Tyrone. O'Cahan was married to O'Neill's sister, and had joined him in the wars; but Chichester and Docwra, to end the struggle, tempted him to take the Queen's side by a promise to relieve him from tribute to O'Neill and grant him his lands in fee simple.

O'Cahan's acceptance of this offer, and the breach of the bargain, led to consequences that have furrowed deep tracks in Ulster history. Hardly had the compact between him and Docwra in 1602 been concluded than O'Neill was also persuaded to cease insurgency. The Earl yielded upon a guarantee that his estate should be restored intact, and thus the undertakings to chief and sub-chief were wholly repugnant to one another. The treaty with O'Neill was signed on behalf of the Crown, that with O'Cahan on behalf of Chichester. State policy compelled the breach of one or other. For, when Elizabeth lay dying in March, 1603, the Lord Lieutenant thought it good to promise O'Neill pardon ere the Scotch King, with whom the Irish were in amity, ascended the united Thrones. O'Neill accepted conditions, knowing of the offer to O'Cahan, but not of the Queen's death-sickness. He refused at first to parley, because a re-grant of his territory with undiminished rights was denied. The Lord Lieutenant, though loath to concede such terms,

feared that, if the news of the accession of James I. reached Ulster before peace was concluded, O'Neill would surrender voluntarily, and so win grace with the new King. He, therefore, ordered Sir Garrett Moore and Sir William Godolphin to confer a second time with him, and to agree to all he asked. A treaty embodying the bargain was signed at Mellifont; and, when O'Neill afterwards visited England, a King's Letter for Tyrone was handed to him. He returned in triumph in September, 1603, having had all his claims and those of his family honourably met at Court.

Naturally O'Cahan chafed at the breach of faith with himself; but, for the three years during which Devonshire survived, the arrangement with O'Neill—in spite of protests by Chichester—was respected. The death of Devonshire wrought a complete change of spirit. The new Deputy encouraged Montgomery to support O'Cahan, in order to curb O'Neill's power and clip his acres. The Bishop first stipulated with Sir Donal that the Church should enjoy such lands as he selected in Derry, and then promised that O'Neill's suzerainty, with its burdensome tribute of £200 a year, should be done away with. In edifying epistles to Cecil the prelate enlarged on the advantage which would accrue to religion from this scheme, and he backed up O'Cahan in his refusal to pay rent to O'Neill. The contract between the overlord and his vassal had been written down by the Brehons in clear Gaelic; but at Devonshire's death O'Cahan disowned it, hoping to revive his peace-treaty with Chichester. Little did Sir Donal suspect that both Deputy and Bishop were using him as a pawn, or foresee the dire results that were to follow from his upsetting the decree of the Brehons.

CHAPTER VII.

CHIEFTAIN AND VASSAL.

O'Neill, seeing his brother-in-law fall under evil influences, tried to enforce payment of his rent by "distress." In 1606 he resumed possession from O'Cahan of the fishery of the Bann, and took a prey of his cattle. This dispute was greedily welcomed by the enemies of the chiefs. O'Cahan lodged a protest with "the State" against the seizures; and O'Neill, although the King gave him sovereign control in his territory, was cited to appear before the Privy Council in Dublin to answer Sir Donal's complaint. A splendid opening for the spread of the Gospel loomed in sight of the "reformers."

When the case came on the Deputy majestically presided over the Council as supreme judge. The suit concerned a river for which, a year earlier, he issued a Patent to Hamilton, and then had it conveyed to himself. Montgomery attended the trial to give it a spiritual solemnity and support O'Cahan. Without at first entering deeply into the merits, Chichester—to gain time to prejudice the King—ordered O'Cahan to send in a formal petition and O'Neill to lodge a written reply. He then appointed the Attorney-General (Davies) and the Solicitor-General (Jacob) to act as counsel for O'Cahan, and adjourned the trial for a month. O'Neill, bereft of legal assistance, was left to his own devices. Before the next hearing Davies sent a report on the case to Cecil. He threw out that O'Neill's Patent was bad, but spared mention of the fact that a petition for its amendment had been rejected on his advice—although in other cases "defective title" was cured for the asking. Nor did the Attorney-General relate that the Bann had been

seized by the Deputy, or that he sat, and would again sit, to try the title to its waters without informing the litigants that he held spurious Patents for it in his pocket.

In June, 1607, the Court re-assembled in Dublin Castle, and Davies at once raised objections to O'Neill's grant. He argued that, notwithstanding the treaty of Mellifont, "Tyrone" did not include "O'Cahan's Country": and, therefore, that the Earl's seizures from his vassal were unlawful. As no map was attached to the Patent (which embraced several counties) it was easy to wrangle over boundaries. The Deputy and his confederates patiently listened to the Attorney-General. They thought his contention ingenious; although it was marred by the blot that its logic required a decision in O'Cahan's favour. This would no more have suited than a victory for O'Neill. Sir Donal had served his turn. Davies, therefore, also argued that the Earl's Patent was altogether bad. True, he was the lawful heir to Tyrone under a prior Patent to his grandfather, Con, from Henry VIII.; but that did not count, for had he not risen in rebellion against Elizabeth? His subsequent pardon by King James without attainder was not to be made too much of; and Davies rattled on by the hour berating the fallen chief. Chichester gloated over his victim's plight; chid him betimes when he exploded against his adversary; and in the end gave judgment against both of them. This feat was unexpected by Sir Donal, but the decree was ingenious. It ran:—"Upon examination of the whole matter, it semed to them that the right to that country still remaineth in his Majesty." In other words, the Treaty of Mellifont was broken, and O'Neill's Patent was declared void. Punic faith was honour bright with Sir Arthur Chichester.

A trap was then laid for the Earl by a proviso that, until his Majesty's pleasure should be signified, O'Cahan was to have two-thirds of the lands, and the Earl one-third, but that meanwhile O'Neill was to repair to London before

the following November, to await the Sovereign's pleasure. As to the Bann, the decree was marvellously mute. Davies wrote to prepare Cecil for his victim's visit, and make up the King's conscience. His falsehoods, dated 1st July, 1607, were plenary:—"Plainly neither of them hath any title. It is now, and ever hath been, vested in the actual possession of the Crown since the 11th Elizabeth. Howbeit, the land lying in those remote parts, the ignorance and negligence of officers was such that it was never brought into charge." All this, four years after the Patent of 1603, and the pardon from James I. which alone would have revived his rights (as grandson of Con O'Neill) under the Patent of Henry VIII.

After such a trial O'Neill felt that the command to proceed to London covered a plot to get rid of him altogether. London held a grim keep called the Tower, familiar to the owners of Irish estates, whither scores of chieftains had been lured aforetime. His experience disinclined him to make the pilgrimage. He knew that the Deputy had clouded the King's mind with suspicions as to his loyalty, and he brooded over some earlier essays to compass his assassination. The dungeon or the scaffold was, he feared, to end the trip to Court. An estate so unwholesomely extensive as his forbade much hope of justice. The partition of Sir Con O'Neill's patrimony in Claneboy was not two years old, and the alliance between Hamilton, who contrived it, and the Deputy, who abetted it, remained in full force. The Earl, therefore, came to the conclusion that he was a doomed man, whether he went to London or whether he remained at home. He took counsel at Mellifont with Sir Garret Moore (who had persuaded him to sign the treaty of 1603), and resolved to go into exile. Then he bade farewell to Moore, and having also taken leave of the Deputy at Slane, O'Neill, in September, 1607, sailed for France from Rathmullen, with Maguire, Lord of Fermanagh, O'Donnell, Earl of Tirconnell, and their kins-

folk. Such was the terror of Chichester that they were denied water for their ship in one creek in Donegal.

Bards and Brehons have lamented that these Gaelic lords did not hold their ground. Their critics have not explained whether the Earl of Tyrone should have gone to London and risked being mewed up in the Tower, or have disobeyed the order and resisted arrest without an army to back him. The victim himself, living and acting in days when he could measure and appreciate the consequences of obedience or revolt, decided on flight. It may not have been a heroic course, but it was a decision taken by a seasoned captain, who had faced death on a score of battlefields, and whose deeds of daring still rang throughout Europe.

CHAPTER VIII.

UPROOTING THE NOBLES.

CHICHESTER had a second plan in reserve to undo O'Neill in case his London plot should miscarry. One of his creatures called Weston, whom he employed as a collector or farmer of "fines and amerciaments," claimed to hold a mortgage on the Earl's fisheries in the Bann and on those of O'Donnell in Lough Foyle. The Attorney-General certified that O'Donnell had "suffered a recovery" in a suit against him by Weston in 1605. O'Cahan was also registered as being in Weston's toils. The Deputy's reckoning was that, if the design to send O'Neill to the Tower failed, he could decree a foreclosure of his estate, or at least of the fisheries. The news of the Flight of the Earls reached him as unlooked-for good tidings. At one blow the great Ulster chiefs were got rid of, and with them away the lesser thanes could easily be dispatched or despoiled.

O'Cahan was the first of the remnant to taste the fruit of the downfall of Gaelic power which he so largely brought about. Instead of reaping the fulfilment of the hope that his bargain of 1602 would be carried out, Sir Donal was seized by Captain Phillips and, without cause assigned or pretence of trial, was lodged in Dublin Castle, and thence transported to the Tower. There he was kept a close prisoner till his death twenty years later. His treachery to O'Neill met its reward in the only sterling current at Chichester's mint.

Other native aids of the Deputy were similarly guerdoned. Queen Elizabeth had no sturdier ally in Ulster than Niall Garve O'Donnell. In the belief that he would be rewarded with the chieftaincy of Tirconnell he gave her precious and

constant help. When peace came Niall expected a Patent, but the royal pardon to the Earls forbade such a hope. Some years later he applied for a grant of the fishery of Lough Foyle as part of his inheritance. To make him this award would have been but a stunted acknowledgment of his loyalty, but Chichester had now seized that prize for himself. Hamilton was advanced from Tyrone to Donegal and put in possession when the Earls fled. So the Deputy, on the 22nd May, 1608, suavely replied to Niall Garve :—

"You shall have all the fishing which is the King's on the Tirconnell side, and you may make use of it for this season; but what belongs to private men, as Mr. Hamilton and others, we cannot take from them without agreeing with them, which you may do if you desire it for your profit."

This, of course, was mere byplay, and in a few months Niall Garve discovered that, as the Tower was so convenient for the caging of O'Cahan, he, too, was to be similarly housed. Blameless of aught against the State save the wish to have a living in his own glens, the Queen's O'Donnell was arrested and deported to London. With him went his son, Naghten, and his two brothers. Everything was done quietly, without trial, charge, indictment, or legal parade. There was no scandal—not even a court martial. Niall Garve and his son, like O'Cahan, spent the rest of their lives in the Tower. His brothers, when the Plantation was complete, were set free, only to find on reaching their native shore that their lands were partitioned among strangers.

In the Tower with O'Cahan and O'Donnell was lodged Sir Cormac O'Neill of Augher Castle, Tyrone, a brother of the fugitive. His crime was that he was the first to inform the Deputy of the Earl's departure and ask for a "custodium" of his estate while he was away. Sir Cormac was married to Red Hugh O'Donnell's sister, and as the kinsman of suspects he, too, was deported to London and perished in the Tower. Before the Earl's flight Chichester had hanged the most bril-

liant of the young O'Neills, Brian Art, for killing in self-defence a brawler who assaulted him. The humbled Tyrone vainly offered ransom for his kinsman (a brother of Owen Roe), whom he loved, but the Deputy's justice was the greatest of all his works. So the youth was slain according to law.

This left few notables in the North. Young Sir Cahir O'Doherty, with his taking carriage, was an eyesore for a short time, but he was hunted down and killed without undue commotion. O'Doherty had been brought up by the English, to whom his father presented the site of Derry City. His Patent from King James in 1603 confirmed an arrangement made by Sir John O'Doherty with Queen Elizabeth, whereby in time of war his castle of Culmore, with 300 acres and the fishery of Lough Foyle, should be reserved to the Crown. Chichester took advantage of Sir Cahir's youth to appoint in time of peace a crony, Captain Hart, Governor of Culmore. In further breach of treaty he gave Hart a "custodium" (or lease) of the castle in 1606, with its 300 acres and the fishery, at 10s. a year for 21 years. This faithless act he turned to his own advantage two years later. In October, 1607, O'Doherty was made foreman of the Grand Jury at Lifford to find the true bill which declared Hugh O'Neill an "outlaw" for the crime of quitting Ireland. Sir Cahir was thanked by King James for this service; but in May, 1608, on visiting Sir George Paulett, the Governor of Derry, about his private affairs, occasion was taken to insult him. The high-mettled stripling resented the affront, whereupon Paulett struck him before the soldiery. Stung to madness, Sir Cahir sought his kinsmen and flew to arms. He attacked Culmore, took Hart prisoner, burnt Derry, and slew Paulett. In July, 1608, he was himself killed by the forces which the Deputy held in readiness.

Chichester's breach of trust as to Culmore then bore fruit. Hart was sent to London to excuse himself for yielding up the

castle, and was removed from the Governorship. To console him he received an adequate scope of ground elsewhere, but the transfer of his "custodium" to the Deputy underlay the exchange. Chichester took possession of Culmore, with its lands and fishery—as, by a like transfer of a "custodium" held by Sir Ralph Lane in 1603 he acquired a Patent for the castle and lands of Belfast. He dispatched Davies to London to crave a grant of O'Doherty's territory, although Innishowen or Culmore was not the King's, but the clan's. James I. "granted" him Innishowen, with its fourteen castles; but in his Patent reserved Culmore to the Crown with the 300 acres and the fishery.

This the Deputy resented, and he removed the blot in his own staunch way. The assignment of Culmore from Hart lay in his coffers, and he applied it to defraud his Majesty of everything the King reserved. In spite of the restraints of the Patent, he brazenly held himself out as the owner of whatever appertained to the O'Dohertys. Their coveted fishery he at once got into his clutches, and it was only rescued later on by the payment of heavy compensation from the Crown. Davies, who had just been knighted for his share in browbeating and banishing Hugh O'Neill, abetted his patrons' misdeeds.

In circumventing limitations in his own Patents and discovering flaws in those of others there was no such artist as Chichester.

CHAPTER IX.

WAR'S AFTERMATH.

O'Doherty's destruction, coupled with the imprisonment of O'Cahan, Sir Cormac O'Neill, and Niall Garve O'Donnell, filled up the cup of Chichester's happiness. The few difficulties remaining in his way in Ulster were easily adjusted. A degenerate Maguire skulked in Fermanagh; but what of him? Having opposed his clan in the war he was promised their seigneuries. When peace came Conor Roe Maguire tasted the common lot of recreants, and found himself bereft of every acre by the Deputy, save a petty ploughland. Such was "the State's" ingratitude that, among British settlers, an outcry was provoked against the faithlessness of their rulers towards him. A Letter of James I. guaranteed Maguire the entire County Fermanagh. Before that, on 29th July, 1602, the then Deputy wrote to the Privy Council that Queen Elizabeth "hath given the chiefry of the country of Fermanagh" to Connor Roe Maguire, but in a flash the planters carved it up among themselves.

Sir Oghy O'Hanlon owned the Barony of Orier in County Armagh, and had always taken the English side. His son married the sister of Sir Cahir O'Doherty, and had joined in his outbreak. Sir Oghy was deprived of his property and given a pension of thirty shillings a week to thrive upon. His son was shipped to Sweden, where wars were toward.

In Cavan the scion of the O'Reillys was a minor, and naturally his lands were seized by "the State." His grandfather, Sir John O'Reilly, fell on the English side at the Battle of the Yellow Ford, fighting against Hugh O'Neill. His mother was one of the Ormonde family, who never

swerved in loyalty to the Crown. Accordingly the Deputy applotted young O'Reilly out of his estate as much soil as was allowed to any English ploughman who "planted" in Cavan. The purge of the Irishry in Ulster was thereby consummated.

The entire North now lay chieftainless. All that was left of its chivalry was represented by the Antrim Scoto-Irishman, Sir Randal MacDonnell. He was the King's friend and hawk-purveyor, and the story of his persecution must be separately told.

Meanwhile Hugh O'Neill and his fellow-refugees were tracked through Europe by calumniators and assassins. A Proclamation issued by James I. imputed that they were base of birth, so as to lower their credit in the eyes of the Continental grandees who offered them hospitality. Spies dogged their footsteps while they lived, and when they died their heirs were strangled or poisoned wherever they could be trapped. At home their countrymen cowered in helpless humiliation. The native swordsmen were disarmed or deported to Sweden or Poland.

Sheriffs and escheators, who were merely licensed free-booters seeking what they might devour, quartered themselves on the country. The fields of the husbandmen were ravaged; the poor were without bread. Monks were cloisterless; priests churchless; harpers without a hall. The only requiem for the dead was the howl of the wolf. Official prelates and clergy, unmindful of duty to God or man, installed themselves in ancient fanes, and the echo of the stranger's ritual in a strange tongue disturbed the slumber of the saints.

The upkeep of the discowled apostate or the Lutheran upstart was cast upon the clansmen who spurned their worship. Evil-livers like Miler Magrath, "Archbishop" of Cashel, or his mates from overseas, diverted to their pleasure the incomes which the ancient Church held in trust for the poor. Few of the imported divines could explain to a nation whose speech

they scorned their message from on High. The gift of tongues was slow to descend on them.

Ecclesiastics who had escaped captivity or the sword, took to the hills or went into exile. The handful who apostatised were the scorn alike of the invader and the native. The gentry whose lands were forfeited in the cause of "Gospel extension" became "recusants," for did they not reject the doctrine that they should be rooted out like the Amalekites or Jebusites? Queen Elizabeth had made a gift to the earlier missioners of a fount of Gaelic type, but the fund was embezzled. So Chichester ordered the Book of Common Prayer to be done into Irish; but disbelievers failed to recognise in him another Patrick. Order was taken that the Brehons, who treasured the roll of the mensal dues paid by each chieftain to the priests, should yield up their crumpled parchments at Assizes so that the tribute to the ancient Church might be earmarked as "tithe" for the new "Establishment."

The Deputy assisted at these soulful inquiries, and blended delicately a spiritual jurisdiction with what was worldly. Who so zealous in the Lord as he, if advancing godliness assisted confiscation? Davies' account of their progress in the North might serve in part as a model for the diary of Anti-Christ. It notes with wonder that, at this zero-point of national desolation, "all the common people have a whining tone or accent in their speech, as if they did still smart or suffer some oppression." Other breeds of men, of course, would have waxed merry at the sight of the intruder enriching himself at the expense of their nobles, settling down cosily in their pleasaunces, seizing their churches, defiling their monasteries, corrupting their Courts, and becoming master of the fields, woods, and waters which had come down to them from countless generations.

The ancient code of justice, which the Brehons had administered for over a thousand years, was judicially decided to be "a lewd and barbarous custom." The fictions

of "John Doe" and "Richard Roe," with all the follies of the feudal law, were set up in its place—to connote the higher civilisation. It was under a Scottish King that the absurdities and cruelties of the English Common Law were forced on Ireland, though the Scottish nation refused to adopt it. The Brehons as judges were in character and training far above the importations who administered the new system. In the native mind the stranger's zeal for equity ranked with that of the new clergy for the religion to which they were asked to conform.

Spenser's "View of Ireland" draws this contrast:—

"Wherein it is great wonder to see the odds which is between the zeal of Popish priests and the ministers of the Gospel; for they spare not to come out of Spain, from Rome, and from Rheims, by long toil and dangerous travelling hither, where they know peril of death awaiteth them, and no reward or riches is to be found, only to draw the people into the Church of Rome. Whereas some of our idle ministers, having a way for credit and estimation thereby opened unto them, and having the livings of the country offered unto them without pain and without peril, will neither for the same nor any love of God, nor zeal of religion, nor for all the good they may do by winning souls to God, be drawn forth from their warm nests to look out into God's harvest, which is even ready for the sickle and all the fields yellow long ago. Doubtless those good old godly Fathers will (I fear me) rise up in the Day of Judgment to condemn them."

Thirty years later Charles I., in a letter (written with his own hand) to the Irish Protestant Archbishops, complained that "the clergy of Ireland are apt to be careless of God's service and their own honour." One of his officials, Sir John Bingley, described them in March, 1629, as "a set of very profane and drunken fellows." Sogarth aroon!

CHAPTER X.

THE HARRYING OF SIR RANDAL.

To complete the uprooting of the Ulster chiefs, an onslaught on Sir Randal MacDonnell was undertaken. The persecution of the other chieftains might be palliated by the plea of political necessity; but, with the passing of Elizabeth, no such excuse in MacDonnell's case existed. He, like O'Cahan, had been induced by Chichester to forsake O'Neill in 1602, and the surrender at Mellifont was largely brought about by this desertion. His loyalty to James I. as a Scottish noble was undoubted, but for full seven years he was pursued by the malice of the Deputy, who thwarted the King's wishes in his regard, to feed a personal grudge and win private profit. This vendetta ended in Chichester's occupying the judgment seat to decide the title to Sir Randal's fishery, after he had secretly grabbed it for himself.

MacDonnell's Patent was the first issued by James on becoming King of Ireland in 1603. It was a favour shown to Randal as the Scoto-Irish Lord of the Isles, and the brother-in-law of Hugh O'Neill. It confirmed to him 333,907 acres in Antrim—an enormous estate—but reserved to the Crown three-fourths of the tidal fishery of the Bann. This grant (dated 6th July, 1603) was distasteful to the hungry Captains avid for spoil, and cavil was raised against it from the outset.

To meet opposition, Sir Randal obtained a second King's Letter, instructing Deputy Cary to issue an amended Patent. Cary was slow in his obedience, and was recalled before complying. Chichester, on succeeding him, ignored the royal order altogether. He had forged for himself a life-estate in the Bann and Lough Neagh, by "amplifying" his Patents, and astutely

worked to prevent recognition being given to the title of any legitimate owner. Delay drove MacDonnell to apply for a third King's Letter, and James I. signed this in April, 1606. Chichester's hand was thereby forced; but—nimble in resource—he dispatched Hamilton to London to crave permission to stay the Patent. He wrote to Cecil in June, 1606: "Sir Randal MacDonnell is neither faithful nor obedient . . . as Mr. Hamilton can at large inform you."

The pair who had fraudulently conveyed to themselves the entire Bann (tidal and non-tidal) with Lough Neagh, on the 14th February and 3rd March, 1606, now battled fiercely to block the making of a genuine grant to Randal. They failed, however, for, such was the King's liking towards his Scoto-Irish liegeman, that MacDonnell, who travelled to London to checkmate the intrigue, returned triumphant with the royal warrant. The baffled Deputy was compelled to issue the amended Patent in July, 1606. Still he was not to be baulked, and cast about for a new expedient to undo the King's will. Hot foot, he set on Hamilton to bring a suit before himself in the Privy Council, and allege a prior title in the Bann to that of Sir Randal. In this litigation the validity of the fishery grant was disputed; and Davies was enlisted to assail the Patent on that point. A trio such as Chichester, Hamilton, and Davies was not easy to match; and in legal jousting they easily outpointed the Lord of the Isles.

Bringing on the case in Randal's absence, the Deputy, who had previously acted as judge in the trial of O'Cahan v. O'Neill, where his own claim to the Bann underlay the action, bettered that shameful precedent. Judicially weighing Hamilton's "rights," but without hearing the other side, he decided that MacDonnell's "fourth" of the Bann should be put in sequestration "pending a suit at law"; and he appointed his henchman, Captain Phillips, Receiver over the profits. MacDonnell was then in London, and only learnt

of the sequestration on reaching Ireland. Straightway upon his return he sent this protest to Cecil :—

"Upon my arrival I found myself dispossessed of the fourth part of the fishery of the Bann, which his Majesty was pleased to grant me by Patent, being the best stay of my living. This was wrought by means of one Mr. James Hamilton, who, searching and prying curiously into my Patent (as he doth into many other men's estates), seeks to take advantage upon words and other sly causes, thereby to void my interest and to pass it to himself, upon other men's grants, which he hath purchased."

He added that Hamilton was abetted by Captain Phillips, who had been his own tenant of the fishing ; and that they had laid two informations against him in the Star Chamber. He, therefore, begged Cecil to write to the Deputy "not to be a partial judge betwixt me and those that take my fishing from me." Little did he know that Hamilton was only a stalking-horse for the Deputy, who, two months before, had taken a conveyance of his fishery.

Chichester, in a letter to Cecil of the 12th September, 1606, tried to blunt Randal's complaint by slandering his victim anew. "There is not a more cankered and malicious person than Sir Randal MacDonnell, who from a beggar is made great, and yet rests unthankful." His report, during O'Neill's rebellion in 1601, belied the story of the "thankless beggar made great," for Sir Arthur then certified that "Randal and O'Cahan are two of the richest and strongest adherents of Tyrone." MacDonnell's Patent merely gave him what his ancestors had held through several reigns, and, on an appeal to the King, the sequestration was quashed.

The Deputy, however, returned to the attack. On the 2nd April, 1607, he procured a King's Letter reciting :—"Sir Randal's followers having riotously asserted his right to the fourth part of the fishing of the Bann, and having by surprise obtained King's Letters dissolving the

sequestration of said fishings made by the Deputy and Council pending a suit at law, the sequestration is to be re-imposed until the suit at law be determined." This missive arrived in Dublin just as O'Cahan's petition against O'Neill was being heard in the Castle Chamber. Taught by the treatment meted out to his brother-in-law, MacDonnell realised that, if he submitted himself to this tribunal, he was lost. Being not only an Irish, but a Scottish chieftain, he wielded influence at Court which the Earl of Tyrone could not command, and was less afraid to trust himself there. So he faced for London a third time, and again urged and won his suit before the King. A warrant from his Majesty announced his victory on the 22nd August, 1607, and commanded Chichester "to dissolve the sequestration of the Bann and to take order that Sir Randal MacDonnell should enjoy his portion of it."

The decision would have worked a complete overthrow of the Star Chamberers but for an unexpected turn in affairs. In September, 1607, the Flight of the Earls startled the kingdom and threw supreme power into Chichester's hands. The event was revolutionary, and the confiscation of Ulster was its consequence.

With the knowledge that a Plantation was resolved on, the Deputy, on the 13th January, 1608, raised anew the question of Sir Randal's "fourth." He coolly referred to it in a letter to Cecil as "the case in controversy between Sir Randal MacDonnell and Mr. James Hamilton, concerning the fourth part of the fishery of the Bann, sometime debated before me, and order thereupon made by myself and the Council." He went on to announce that he had "caused the King's learned counsel here to draw the case according to the records," and was sending it to London for the information of the Privy Council.

This admission that he had acted as judge in the action might seem to show candour, but no one then was aware that MacDonnell's fishery had been conveyed to him. The

Deputy's adjudication in Hamilton's favour was the counterpart of his decision in O'Cahan v. O'Neill; yet, so obscure were his devices, that the fact that he was personally interested in the suit lay hidden for three centuries. The Attorney and Solicitor-General, who "drew the case according to the records," knew the truth, but suppressed it. So, the Privy Council, unaware of the guilty secret, allowed the sequestration to be re-imposed for the third time, to the despair of Randal, who hastened to London in June, 1608. This time he met with failure there, for Chichester was now all-powerful. His journey, however, so much upset the Deputy that, to baffle MacDonnell beyond hope of recovery, he resorted to a desperate shift. It took the shape of transferring his fishery to a stranger; by which device it was hoped to raise an insurmountable obstacle in his path. To give solemnity to the stratagem, Chichester, by an act of State, gave it validity in the King's name. On the 1st July, 1608, while MacDonnell was making his way to the steps of the Throne his "fourth" was conferred by Patent (with much other gear) on "our dear Arthur Bassett of Dublin."

Here indeed was legerdemain. James Hamilton we know; Thomas Irelande we know; Auditor Ware we know; John Wakeman we know; John King we know; Carew and Cary we know; but who was this new ensign of the brigand troupe? He appeared in the lists with vizor down, and was previously unknown to fame. The stranger, however, was no less a person than Chichester's nephew—fresh landed a year before from Devonshire.

The manufacture for him of a Patent purporting to affectionately embody the royal wishes was a masterstroke.

CHAPTER XI.

THE DEPUTY'S NEPHEW.

"OUR dear Arthur Bassett of Dublin" was not of Dublin, but of Umberley, in the County of Devon. He was brought over to serve as jackal for his uncle, and the Patent suddenly made out for him was simply a link forged in the chain of confiscation. It granted Bassett all the enormous territories captured by Chichester through Hamilton on the 14th February, 1606, with Sir Randal MacDonnell's "fourth" of the Bann thrown in. No King's Letter authorised it, and the Patent was issued without the knowledge of his Majesty or any of his Council. Nevertheless, it emerged duly sealed from the Irish Chancery; and its formal validity could not be denied. Here the cunning hand of Davies was again at work, and the processes of law were twisted by him to purposes which no one else had dreamt of. The minting machine, the dies, the cranks, the pulleys, and every handy engine for counterfeiting stood ready; but it was the brain of Davies which turned them to account. How came he weaponed for this work?

Two years earlier a "Royal Commission for the Remedy of Defective Titles" had been established by James I. on the Deputy's advice. It was set up as a local convenience, to enable Patents to be issued in Dublin to owners whose grants had been held defective, without the necessity of suing out King's Letters from London. On payment of a fine by approved applicants, the Royal Commissioners, who comprised all the leading members of the Executive (17 in number), headed by the Deputy and the judges, were empowered to make amended grants. Their integrity and good faith were

relied on by the King to exercise the regal privilege entrusted to them without any check or supervision.

This delegation of royal authority Chichester perverted to his own purposes. His nephew owned no property in Ireland, and had no title to be "remedied." Yet to this landless upstart a parchment was presented, as if he were some ancient and blameless Patentee in whose deeds a flaw had been detected. His Majesty never heard of "our dear Arthur Bassett," who was "of Dublin" only because he had been fetched there to abet a crime. He was for the moment Provost Marshal for Munster, it being the Deputy's habit to quarter as many of his relatives as possible on the taxpayers; but there was no other link to connect him with Irish soil. The property stolen through Hamilton was all conveyed to him by this means, and with it was included the "fourth" of the tidal Banu which MacDonnell was given by James I. on his accession five years before.

This pilferage must be reckoned as one of Chichester's most dexterous fetches. In skill it outdid even the budding of the life-estate in Lough Neagh on the thirteen-and-fourpenny "command" at Carrickfergus. Still, its success was influentially contributed to by others. The trick required the collusion of the Attorney-General, the Solicitor-General, the Chancellor-Archbishop of Dublin, the Chief Justice, the Chief Baron, the Master of the Rolls, the principal Secretary of State, and the Chancellor of the Exchequer. Every high official was needed as an accomplice; and not one of them flinched. These were the men who embodied the civilising influences which replaced the less facile justice of the "lewd" Brehon Code.

Latent merit also lurked in the Patent, as an instrument of chicane. It vested great estates in an outsider, who could assign them to the Deputy with a title free from apparent taint. It overlaid with veneer the frauds connected with John Wakeman, John King, Thomas Irelande, Auditor Ware,

and James Hamilton. It wafted an air of kingly approval over a barefaced theft. It stripped Sir Randal quite noiselessly, and handed his fishery to a stranger alleged to be "dear" to his Majesty. In form it was a royal grant, which, though obtained by the prostitution of the Commission, was redolent of legality.

When these shifts, re-shifts, and makeshifts to secure a semblance of lawful origin for Chichester's booty were accomplished, the grant was garnished with the Great Seal of Ireland. Within six months of that solemn rite Bassett transferred everything back to his loving uncle. The conveyance from him, of course, was kept a secret, like Hamilton's assignment, and was never enrolled. A knighthood was Bassett's reward, and the Deputy prescribed in his will that he should be buried in the same tomb with himself at Carrickfergus. There each worthy now lies awaiting the judgment of the Resurrection.

Contrasted with Chichester's refusal to remedy, by the same machinery, the pretended blot in the Patent of Hugh O'Neill, the parchment issued to Bassett attracts lasting interest. O'Neill's grant was the outcome of a National treaty which ended a nine years' war. Bassett's was a swindle carried out against the King and his subjects. Criminality permeated it even to minor details. The fine due to the Crown on its being issued was left unpaid, in spite of a recital that £20 had been lodged in the Exchequer, and in this way the King was both pettily and grossly cheated.

While this Patent was a-making, Sir Randal renewed his appeal to the King. He was, however, unexpectedly thwarted at Court, and for the first time tasted defeat. Umbraged and disconsolate, he was sent home from London, but immediately recommenced his efforts, and not altogether without success. The discouraged chief, who had never even heard of Bassett, wrote to Cecil on the 19th August, 1608:—

"When I took leave of your lordship at the Court at

Greenwich, you were pleased that my fourth part of the fishing of the Bann, being in controversy between Mr. Hamilton and myself, should remain, as it was the former year, in sequestration; and that neither of us should reap any benefit of the rent of the same, until the controversy was decided by law."

He went on to complain that the sequestrator, Captain Phillips, "pays the yearly rent of the fishing privately unto whom Mr. James Hamilton will appoint there; and thereby thinks to deprive me of my rights to the fishing, to my great loss." He, therefore, besought Cecil to let him have the fishery again, and that meanwhile the Bishop of Derry should be appointed sequestrator.

This protest led to an Order of the Privy Council on the 31st October, 1608, setting Phillips aside. It runs:—"As Mr. Hamilton has prayed that Sir Thomas Ridgeway be appointed sequestrator, and Sir Randal MacDonnell has demanded that the Bishop of Derry be appointed, the Lords of the Council suggest that they be appointed joint-sequestrators; and, if they are not content with this arrangement, the Deputy shall appoint some indifferent person as sequestrator." Chichester's reply is not preserved. The State Papers are at times mournfully vacant as to his correspondence. Cecil, whose "Cabinet," as the Earl of Northampton complained, "had been made the treasury of the State's whole evidences and intelligence," lacked at his death many precious papers. The "saint" and the sinner understood one another.

Whatever answer Chichester sent, or rejoinder Sir Randal made, it dawned on the Privy Council by the end of 1608 that the Bann had been alienated by the Deputy. The King took the news bitterly. After the Flight of the Earls he contemplated a grant of the river to the London Corporation; and his anger was kindled against the devastators of Ulster's spoil. In January, 1609, Cecil was ordered to demand explanations. He had commanded Sir Arthur in June, 1608, "not to dispose

of an acre" without authority from England. James I. assumed that the grants fathered on Hamilton had been made in disobedience to this injunction; but Chichester stoutly replied that they were gifts for the benefit of the Earl of Devonshire under the Wakeman Letter. A discreet silence was preserved as to the fact that he had transferred to himself the non-tidal Bann and Lough Neagh along with MacDonnell's "fourth" under bogus patents.

Little as the Lords of the Council guessed the extent of his profligacy, they grew suspicious. In April, 1609, Sir Randal obtained an order that the Deputy should "direct trial of the controversy with all convenient speed," and "that his Majesty may be no further importuned in the matter." This command Chichester pigeonholed, and his victim was left remoter than ever from justice.

New influences, however, were setting in which affected every claimant to property in Ulster. The King, finding the North swept of its Chiefs, and knowing naught of the practices of the Deputy, determined to root Scottish and English settlers in the seats of the stubborn septs. A Plantation would solve the Irish difficulty. Chichester differed from his Majesty as to the future of the Province, and saw in its desolation a means of personal aggrandisement. James hoped to strengthen his garrison by planting the battle-wasted area with British Protestants. The Deputy felt that disarmed natives would be easier to deal with than cross-Channel adventurers protected by royal favour. The King's policy, besides, exposed him to the risk that his crimes might be laid bare. He could show no title, save what Bassett's Patent afforded, to his most important acquisitions. Excluding that document, the only parchment he held for Lough Neagh and the Bann, or the countless acres seized therewith, was a secret assignment from Hamilton. This had, for its sole foundation, grants as shaky as Bassett's, springing from his own wrong-doing.

James I., ignorant of all this hocus-pocus, busied himself throughout the year 1609 with the question of bestowing County Derry, the Bann, and Lough Foyle, on the London Corporation. In January, 1610, a treaty with the City was signed on behalf of his Majesty, and the Ulster Plantation was begun. The play of forces in the struggle between MacDonnell and Chichester now took new forms, and the final bout in their long duel was postponed.

CHAPTER XII.

CHEATING KING JAMES.

WHEN Chichester realised that the Charter to the Londoners was to include the Bann and Lough Foyle, he began a game of cross-purposes to undermine the royal project. On the return of Sir John Davies from London, bringing him the gift of O'Doherty's barony of Innishowen (July, 1609), he got the Attorney-General to join him in a fresh intrigue against the King. They planned an excursion to Ulster, ostensibly for the purpose of executing a Commission—long out of date—to ascertain the ecclesiastical lands of the Sees of Derry, Raphoe, and Clogher; but in reality to devise means to thwart his Majesty's policy.

The Commission was issued on the 2nd May, 1606, three years earlier, and, therefore, was utterly stale. The Flight of the Earls was already an event two years old, and one which left Bishop Montgomery in undisputed enjoyment of Catholic dues. Yet the Deputy was smitten with such heady zeal for Church interests in 1609 that he must needs visit the Ulster vineyard in haste to care for the elect under the pastoral eye of the Attorney-General.

Before setting out he performed a miracle worthy of his pen. This was to "annex" to the spent Commission of 1606 "certain articles of instruction under the Great Seal of Ireland" so that he should be enabled "to inquire of divers things in the said Commission and articles of instruction." In vagueness nothing could be more studied. The added "articles" were dated the 21st July, 1609, and they completely altered the scope of the Commission. The King had directed a merely ecclesiastical inquiry, but the Deputy,

who for three years neglected to hold it, "amended" the royal instructions in his own behoof. Great was the magic of "amendment." He was careful not to enrol or record the alterations; and, therefore, the added "articles" remain as undiscoverable as the Bassett-Hamilton conveyances, or the Patents of 1603.

Under their authority Chichester sat with Davies and others at Limavady on the 30th August, 1609, and held a Court. His purpose was to set up a claim to the Bann in order to oust the Londoners, and so overreach them that their Charter in that respect must prove a nullity. In the castle of his prisoner, O'Cahan, knowing that the Crown was striving to perfect the contract with the Undertakers, he empanelled a jury of Brehons and leading natives to defeat the intentions of his royal master. The jury, under the original Commission, could only have ascertained the title to and scope of Church rights, but under the invented "articles of instruction" the Deputy got them to add a finding which declared that the Bann, from Coleraine to Lough Neagh, with its bed and soil, belonged to himself.

The Brehon jury was first set on to make voluminous ecclesiastical pronouncements; and, having spent the day thereat, they completed their work with the verdict in Chichester's favour. He presided over the inquiry himself, as he did in the suits of "O'Cahan against O'Neill" and "Hamilton against MacDonnell." Doubtless, he strove to impress the "lewd" Brehons by his judicial bearing, but they understood little of his purpose. They spoke Gaelic and Latin, but not English; and Sir Arthur laid before them his grant of the river to Hamilton in Latin, and Hamilton's Latin assignment to himself. Their "finding" he set down in English—a tongue then rarely used in legal documents. Its import was unknown to them, and his scribes, doubtless, wrote out whatever he desired. It is tacked on at the end of a long ecclesiastical verdict, with which it is wholly disconnected.

The Brehons had been assembled to declare and earmark the local belongings of the Church, and were asked by the presiding judge to decide that the Bann was his property. If they really did so and if the "tack" was not subsequently made Davies must have enjoyed the sight of the Deputy "charging" a wild Irish jury in Latin in his own interest, and availing of their lack of English to cheat the English King.

The verdict when engrossed was personally signed by Chichester. The Archbishop of Armagh and the Bishop of Derry added their saintly names. These were followed by the signatures of the Attorney-General, the Chief Justice, the Surveyor-General, and the Vice-Treasurer. The "lewd" Brehons' finding was worthily witnessed in Church and State. As Parsons subscribed it his mind must have turned back in placid contemplation to the Antrim Inquisition of 1605, when he first shuffled the cards to jink success to his master in the great game he was playing.

The Deputy, from beneath O'Cahan's roof, dispatched an austere account of the proceedings to the King. Having circumvented the royal policy, he edified his Majesty by inveighing against "the insatiable humours of craving men," and held forth on "the duty and service I owe to my sovereign." He wound up with the boast that "the justice of the land, without being thought a praiser of myself, was never distributed with more clean hands in this kingdom." Davies sent a companion report which glowed with ecstacy over their visit, but omitted everything that the King ought to have known. As they compared notes for these dispatches the walls of O'Cahan's castle must have rocked with laughter. The augurs sometimes enjoyed themselves.

While this sport went forward the Corporation of London, which was about to levy a heavy assessment on its citizens to defray the cost of the Plantation, had its agents in the North to view the country. They met the Deputy at Limavady just as his letters were being sent off to James I. They

discussed with him the terms of the proposed Charter, and he gave them much wise counsel as to the carriage of their adventure. The one point he forgot to mention was that he was an adverse claimant against them for the Bann and Lough Foyle—the chief ingredients in their bargain.

As they took their leave the agents warmly gave thanks, believing him to be a stout ally; and, on reaching London, they reported in favour of the Plantation. Five months later (28th January, 1610) the City accepted a grant of County Derry, with the Bann and Lough Foyle, and agreed to "plant" the North. No more solemn State contract is on record. Yet it was cankered from its inception by official duplicity.

When James I. learnt through Sir Randal MacDonnell of the transfer of the tidal Bann to Hamilton he did not realise—angry though he was—that the non-tidal river and Lough Neagh had also been granted away. He therefore promised to reacquire for the Londoners at his own expense what he supposed had been inadvertently parted with. Chichester never openly asserted ownership of the fisheries, for he hoped that a breakdown would occur in the negotiations with the City. These, indeed, were often on the verge of miscarriage; but, as time and argument went on, one obstacle after another was overcome. Finally the agreement of 1610 became the Charter of 1613.

Towards the end of 1610 the agents of the Londoners arrived to take possession of their new estate. Their coming forced the Deputy to change his tactics. He saw that the waters he had seized could not all be retained, and arranged with Hamilton to make a partial surrender of them and seek compensation for the "sacrifice."

James I., unaware of the pretensions of any claimant to Lough Foyle and the Bann, had covenanted to give the Londoners an unclogged title. They naturally expected that all blots on it would be removed before they made a venture costing (in present moneys) £600,000. The Charter guaran-

teed that, if necessary, their rights would be confirmed by Acts of Parliament both in England and Ireland.

The "bag" of the Ulster fisheries by Sir Arthur and his partner then stood:—

Lough Foyle and Culmore	Chichester's.
Lough Neagh	Chichester's.
The non-tidal Bann	Chichester's.
One quarter of the tidal Bann ...	Chichester's.
Three-quarters of the tidal Bann ...	Hamilton's.

As deserving owners they were ready to make sacrifices for prompt cash to further the royal policy, and yield up what had been contracted to the Londoners. The Deputy modestly kept in the background, and Hamilton represented him as Claims Agent.

With tradesmanlike particularity, the "Scot" sent in a bill to his Majesty through Chichester, who frigidly transmitted it to London as an impartial broker. It prettily set out that Hamilton, with seven mythical partners, disbursed £4,760 in buying up the estates of "sundry persons" in the Bann and Lough Foyle—over and above "the costs and charges expended as well in suits of law as otherwise for the clearing of sundry titles and claims." This account was vouched by the Deputy as accurate, and his disinterested corroboration of its fairness was accepted by his royal master. Without further investigation £4,500 (or, in modern values, £45,000) was paid to Hamilton in June, 1610.

The King's undertaking to defray the expense of clearing the title for the Londoners weighed heavily on his cramped resources. Shrinking at the outlay, he refused to provide more than £2,500, and left the balance, £2,000, to be paid by the other victims—the Corporation. Between regal meanness and viceregal greed, the Londoners were effectively squeezed.

The Lords of the Council had, in April, 1609, commanded a trial of Hamilton's dispute with MacDonnell as to the "fourth"

of the tidal Bann; and, although Chichester then showed no sign of compliance, he saw his advantage in reviving the quarrel, as soon as the money was received. He and Hamilton for him had taken "compensation" on making over to the Crown, fisheries which did not belong to them, and which, as regards the Bann, were owned either by the Church or by O'Neill, O'Cahan, and Sir Randal MacDonnell. O'Cahan was a captive, O'Neill in exile, and against neither fugitive nor hostage had any forfeiture been decreed. MacDonnell being a royal favourite could not handily be banished, attainted, or imprisoned, yet his "fourth," which the Deputy had "put in sequestration pending a suit at law," was airily disposed of as a chattel of "the Scot's." Then a ponderous scheme to "legally" divest Sir Randal of it was thought out. This grotesque conception is described in the staid pages of the earliest volume of law reports officially published to illustrate the wondrous workings of English justice in Ireland when the overthrow of the Brehon Code was decreed. The decision, like that which set aside as "barbarous" the native system of equity, fell from caitiffs robed as Judges, as inferior in worth and reputation as they were in learning, culture, and honesty to the Brehons they replaced.

CHAPTER XIII.

DIVIDING THE SPOIL.

In November, 1610, the Deputy assembled his men-of-law in the Star Chamber and proceeded to blot out the rights of Sir Randal in a way the King could find no fault with. A report of the business was published in 1615 under the title, "The Case of the Royal Fishery of the Bann," by Sir John Davies, in his collection of the new legal decisions. This sets forth the Attorney-General's contentions, as if they were not mere byplay with a confederate posing as an impartial judge. With great show of learning Davies argued that the tidal Bann was a "royal river," and its salmon fishery a "royal fishery," and that a grant of anything "royal" must be made by express words. MacDonnell's Patent, he said, only used words of exception—i.e., it granted him fisheries "excepting three-fourths of the fishery of the Bann." This lack of express granting words failed, he maintained, to pass the remaining "fourth" by implication. For, quoth he, words of reservation pass nothing "royal" and make no good grant.

On behalf of Sir Randal nobody seems to have been allowed to say a word. It was the second time the case was tried behind his back. If any defects existed in his grant, Davies was the culprit, for the King in 1606 had ordered them to be cured by a new Patent, which the Attorney-General should have supervised. Nevertheless "the chief judges of the Privy Council" cheerfully decided that no part of the river belonged to MacDonnell.

Every inch of the Bann had, in the previous January, been granted to the Londoners without regard to MacDonnell's rights, while Hamilton and Chichester, in the teeth of Sir

Randal's Patent, had taken pay for it as the true owners. Yet with pompous cynicism the Star Chamber, at Chichester's call, elaborately took steps to overlay the felony, and deck it with legal splendour in the shape of a State Trial ostentatiously held in pretended vindication of the prerogatives of the Crown. Lawless as the Star Chamber was, even its procedure was befouled by the device adopted to mask the illicit grants and their transfer to the Deputy. Thus was a love for English law first implanted in the heart of Ulster! Davies blazons the decision in Norman-French in his publication of the cases which established the English Common Law as the basis of Irish justice. With like emanations of the bewigged knavery of the period the judgment is still cited as an authority in modern legal text-books.

The proof of Chichester's participation in the £4,500 levied off the Crown and the Corporation endures under his own hand in a parchment which for 300 years mouldered unnoticed. In the compost of conveyancing with which his Deputyship reeks no document is more striking than that in which he commemorates this transaction. Weighted with the winnings collected for him by Hamilton, Sir Arthur, in April, 1611, thought it prudent to set down and enrol a pretext for having pocketed them. By formal "surrender" he caused a deed in the King's favour to be witnessed before Jones, Archbishop of Dublin, renouncing all claim to the Bann and Lough Foyle.

Jones, being Lord Chancellor, was head of the Rolls Office, and entitled as such to accept "surrenders" without the authority of a King's Letter. The deed which Chichester executed set forth the lie that the Castle of Culmore, with 300 acres and fishings (Lough Foyle), had lately been given to him by two Letters Patent; that the non-tidal Bann and one-fourth of the tidal Bann had been sold to him by Hamilton, who had paid him £550 "for and in behalf of the King's Majesty, who hath given satisfaction to the said Hamilton for the whole fishing of the Bann." Then

it granted the fishings, land, and castle to the King; and wound up with this stately flourish:—"To that part of these presents remaining with his Majesty, the said Sir Arthur Chichester hath set his hand and seal; and to that part of these presents remaining with the said Sir Arthur, his Majesty hath caused a seal to be set."

This masterly composition was mere make-believe. Smoothly smacking in law-prate, it rose to the highest level of legal fiction. His Majesty never heard of the surrender. Jones set his own seal to it without James I. being the wiser. In all material respects the "preamble" festers with falsehood. Chichester, it is true, got a "custodium" of the Castle of Culmore on the 24th October, 1609, with provision for the payment of gunners and warders. Three parchments issued in the following year changed this arrangement, and Culmore Castle, its fishings, and 300 acres were reserved to the Crown on the 22nd February, 21st June, and 16th July, 1610. The new bargain was made "for the furtherance of the intended Plantation by the Londoners," to whom they were given. Other benefits were conferred on Chichester in exchange.

The pretence that he received only £550 out of the £4,500 is in keeping with the rest of his romantic prose. If Hamilton took the lion's share it is strange that the surrender should show that his interest was confined to three-fourths of the tidal Bann, while the rest of the stolen property stood in the Deputy's name. To suppose that the captain of the brigands netted only an eighth of the profits does injustice to his voracity.

If the surrender had been a reality, James I. would have learnt the disagreeable news that, when he presented the Bann and Lough Foyle to the Londoners fifteen months previously, he had had no title to make the grant. Yet so formally was the surrender framed that Chichester joined his wife, "Dame Lettice," in the deed—in accordance with the law governing feudal tenures. This told of the nicety of the expert who (to

facilitate confiscation from the natives) abolished the ancient right of Irishwomen under the Brehon Law "to have sole property in a certain portion of their husbands' goods during coverture"!

Chichester was then in straits. It appeared later that he had embezzled £10,000 from the Crown out of the rents of the forfeited Ulster estates, though he suffered from no lack of income. His salary and allowances were enormous, without reckoning what came in from confiscated lands. He even feigned poverty to cloak his defalcations, but after his death his heir was called upon by Charles I. to make them good.

The part played by his spiritual confederate in this legal pantomime was worthy of "that rascal Jones." His Grace wielded the Great Seal on Chichester's behalf like a burglar's "jemmy." Whether the signet he affixed to the "surrender" was great or small it boots not to enquire. Large as was the gain made by the Archbishop out of the Church Establishment, he supplemented it by grants from the Deputy which lacked the King's sanction.

Such depredations would have been impossible without the connivance of Court favourites who shared in the profits. Public virtue had either ceased to exist or had not begun to be cultivated. When anyone complained of the conduct of Chichester's servitors, most of whom were scoundrels apt for his purpose, he shielded them in dispatches as "very honest men." He fetched from Devonshire his brother and two nephews to assist him, and was at pains to embellish his practices with a garniture of profuse loyalty and solid piety.

In the Castle Chamber (or Star Chamber) he dealt with land, descent, and ownership. Removable judges, flanked by a few men-at-arms, with the Law Officers occasionally thrown in, formed its judicial ingredients. Before them were haled those who were to be fleeced or tortured. Excuse may be attempted for the profligacy of the officials who then found salary and place in Ireland by reference to the hardships of

their service. They had to put up with much discomfort; and to confront, at times, the perils of war, famine, and pestilence. Conquest is a hard school. If they returned to London their journey might end in the Tower and their fee be the scaffold. The sea between the islands was infested with pirates lying in wait to assail their ships, and when they reached the metropolis it was part of their science accurately to know whom to bribe, whom to squeeze, whom to favour, and whom to flatter. Such was the age in which Chichester throve.

CHAPTER XIV.

THE PLANTERS' PARLIAMENT.

With the coming of the Planters, Chichester, being by law disabled from holding land without the King's sanction, grew anxious as to the title of his ill-gotten estates. Many of his Deeds were open to attack, and safety could only be found in confirmation by Act of Parliament. James I. had contemplated, on his accession, the calling together of the Irish Legislature. His order of the 11th September, 1603, as to the pardoned chiefs, mentions "an Act to be passed in the next assembling of Parliament there for the restoration in blood of the Earl of Tyrone, his brother, and their heirs." On the 16th October, 1604, when appointing Chichester Deputy, he informed him that he "intended to call a Parliament" in Ireland. Sir Arthur disliked the idea and blocked it, as he wished to compass the ruin of the native princes. Besides, a Parliament would have created a counter-authority to dwarf his power.

After the Flight of the Earls and the Plantation of Ulster the situation changed. Sway had forsaken the Gael, and a Parliament which native chiefs might control was no longer to be feared. As for the mass of the people, if the manufacture of a majority were attended to with foresight the Deputy knew they could easily be mastered. Conquered Ireland was now shired and sheriffed, with 17 new counties added. In the previous Parliament of Elizabeth only fifteen counties were represented. The drawback that the greater part of the inhabitants of the island were Catholics was one which called for circumspection lest a majority of their representatives should belong to that "damnable superstition." It had

become a cardinal part of State policy that the handful of imported Protestants should control everything, and arrangements were made accordingly.

In 1612 the King agreed that a Parliament should be summoned for the following year, and the Deputy was to see to it that the Planters should be enabled to outvote the natives. When Henry VIII. shired Wales, and admitted its representatives to a voice at Westminster, a different spirit prevailed. No trickery was practised on the Cymri; but in Ireland King James issued charters to 40 hamlets whereby sham "Corporations" exclusively Protestant, returning two members each, were set up at various cross-roads. In the quaint language of the day:—"They were erected in places that constantly pass the rank of the poor villages in the poorest country in Christendom." Bunches of "freemen," numbering a dozen or a score, were named in each charter to elect a brace of representatives, and thus at a stroke 80 reliable Protestants were secured. The sheriffs did the rest. In 1613 by this strategy a Protestant majority of 28 was created in the House of Commons of a country where the Catholics were twenty to one. To mark the King's approval of Chichester's courses he was made a peer and highly commended.

The Anglo-Irish gentry of the ancient faith protested against his electoral arrangements, but were laughed at. They carried their plaints to the King in London, and were imprisoned or abused as "recusants." Such of them as were not lodged in the Tower or the Fleet were only allowed to return home to witness the Deputy's triumph. "Hurly-burlies and other unnecessary stirs were moved in sundry places," but all to no purpose. The packed Parliament met, and the Commons made Sir John Davies Speaker, after a feverish protest from the Anglo-Irish. When it proceeded to business its first enactment was that O'Neill and the Northern chiefs, dead or alive, stood attainted of high treason; that their estates were forfeited, and their Letters Patent void.

The cleavage between the Anglo-Catholics and the disfranchised natives was such that the Bill of Attainder passed unanimously, and was proposed by Sir John Everard, the "recusant" candidate for Speaker, who had renounced a judgeship rather than take the oath of apostacy. Six Ulster counties were then made the Royal demesne.

Now came the moment for Chichester's privy turn. He had a year before procured the assent of the English Privy Council to the "heads" of several measures which he desired to pass, including one "to confirm the Patents of Ulster Undertakers." Some shift of wind afterwards set in at Whitehall against him, and his Majesty, scenting his purpose, thwarted it. No sufficient ground for this sudden disfavour anywhere appears. The records of State are often a blank at the most critical moments.

Perhaps the King was smarting at the havoc wrought by his lordship's grants; perhaps he bemoaned the £2,500 "compensation" paid from his purse to free the Bann and Lough Foyle; perhaps he grudged the Deputy the £10,000 he extracted from Parliament "for extraordinary equipage and porte." Perhaps he learnt of the £10,000 of the embezzled Ulster rents. At any rate, James I. was vexed with his new peer, and determined he would not allow him to "cook" statutes as he had cooked Patents. Cecil was dead, and the influence which the hunchback wielded was lacking. In the royal councils Cecil's enemies openly complained of the way in which he had tolerated the devastation of Crown lands. Sir Richard Cooke, the Irish Chancellor of the Exchequer, urged Chichester's removal, and wrote bitterly of the disorders he witnessed, although formerly he had supported the Deputy.

The first sign of royal estrangement appears in a Letter of the 25th March, 1615, which complains of slackness in forwarding the Plantation. To it the King added a postscript in his own hand, requiring "zeal and uprightness" from the Deputy. Accompanying this querulous dispatch came a

request for a subsidy, and his Majesty promised that, if it were voted, the sittings of Parliament would be prolonged. Chichester meekly bore the rebuke in order to get the Bills he wanted passed, and asked Parliament to grant the money. Both Houses obsequiously agreed, but no sooner had the subsidy been sanctioned than James, in spite of his promise, dissolved the assembly before the Bills could even be brought in.

This blow fell on the 22nd August, 1615; and deadlier thunderbolts were to descend. The King's excuse for breaking faith was the expense to the public of "Members' wages." It was a hollow plea, for the total cost only came to £223. Chichester dispatched a protest against the Dissolution, and sent Davies to London to represent how important, in the interests of a distracted people, were the measures he needed. He hurried to Ulster himself, and from there sent a cunning letter to the King describing the hardships of the Planters and his zeal in their regard.

James was not moved, and even displayed a temper which the "subsidy" had not sweetened. The crestfallen Attorney-General brought back word from Court that "heavy imputations" had been laid against the authors of the misgovernment and maladministration of the country. The alarmed Deputy tremblingly penned an elaborate defence, but a week later (22nd November, 1615) a royal missive dismissing him was signed. The packed Parliament had been dispersed without doing anything to validate his grants.

The want of "zeal and uprightness" in forwarding the Plantation, of which James I. accused the Government, is probably the smallest fault that can be laid at the ex-Deputy's door. The character of the Planters affords some clue to this lack of enthusiasm. Chichester had no wish to stimulate the import of undesirables, whereas the King knew nothing of their calibre. The best justification of the slackness alleged in encouraging such migrants is to be found in the descrip-

tion of them by their own clergymen. Who and what they were is told by the Rev. Mr. Stewart:—

"From Scotland came many, and from England not a few, yet all of them generally the scum of both nations; who, from debt or breaking and fleeing from justice, or seeking shelter, came hither, hoping to be without fear of man's justice, in a land where there was nothing, or but little as yet, of the fear of God. And in a few years there flocked such a multitude of people from Scotland that these northern counties of Down, Antrim, Londonderry, etc., were in a good measure planted, which had been waste before. Yet most of the people were all void of godliness, who seemed rather to flee from God to this enterprise than to follow their own mercy. . . . Thus on all hands atheism increased, and disregard of God; iniquity abounded, with contention, fighting, murder, adultery, etc., as among people who, as they had nothing within them to overawe them, so their ministers' example was worse than nothing. . . . For their carriage made them to be abhorred at home in their native land, insomuch that going for Ireland was looked on as a miserable mark of a deplorable person. Yea, it was turned into a proverb; and one of the worst expressions of disdain that could be invented was to tell a man that Ireland would be his hinder end."

Professor Reid, the historian of the Irish Presbyterian Church, paints the same picture:—"Ulster was now occupied by settlers, who were willing enough to receive and respect ministers when sent, but who were far from being generally characterised by a desire for enjoying religious ordinances. On the contrary, a great number of those who accompanied the original proprietors, and who occupied their lands, were openly profane and immoral in their conduct, and were generally inattentive to the sacred institutions of the Gospel."

A third minister, the Reverend Mr. Blair, writes:—"The most part were such as either poverty, scandalous lives, or, at

the best, adventurous seeking of better accommodation, had forced thither, so that the security and thriving of religion was little seen to by those adventurers; and the preachers were generally of the same complexion with the people."

The Londoners sent a respectable contingent to County Derry; and Chichester's antipathy to them can only be connected with his designs on the fisheries and his hope to break down the Plantation. Constant complaint of his henchman, Captain Phillips, was made by the Corporation, who, doubtless, represented their grievances to the King. They left on record a protest against the antagonism of Phillips, who was but a stirring-stick of mischief for the Deputy.

Commentators on the sudden "disburthenment" of that powerful satrap have groped in the dark for an explanation. There can now be little doubt that it was provoked by the remonstrances of the Corporation. His lordship's hostility to them sprang from the wish to upset their enterprise in order to fasten a hold on Lough Neagh and the Bann.

CHAPTER XV.

A SCOTCH "DISCOVERER."

CHICHESTER'S place in Dublin Castle was taken by his old servitor, Sir Oliver St. John. The veteran himself retired to Carrickfergus, and there awaited his opportunity, spreading his nets patiently and preparing for the future. Davies was retained as Attorney-General, and this became a great comfort to the ex-Deputy.

St. John was a Lincoln's Inn lawyer of the Davies School. He served in the Elizabethan wars, and was a protégé of Devonshire and Cecil. After James I. came to the Throne care was taken to provide him with suitable posts in Ireland. As Deputy, St. John was not without sympathy for his old master, although formerly he had smarted under his lash. Before a year went by the position of Lord High Treasurer fell vacant through the death of the Earl of Ormonde, and St. John and Davies secured the place for their fallen friend. Chichester, greatly mollified thereby, assured the Privy Council, on 24th December, 1616, that "as matters are handled, I think Ireland is at the height of her happiness." Probably from anything that has since occurred this was true enough.

The new post gave him control over the Crown rentals and other records serviceable to his designs. It also helped him to cloak (for the moment) the embezzlement of the rents of the fugitive Chiefs. Accusing voices as to his misdemeanours were however raised, and James I. tried in vain to fathom them. St. John (with the facts staring him in the face) hesitated to expose his former patron. Still the King was not blind; and in October, 1618, the storm broke. Sir

James Balfour was dispatched to Dublin with secret orders from his Majesty to rip open the Patent scandal, and have Hamilton cross-examined in the Star Chamber by St. John.

Balfour was a Scottish "discoverer" (or informer), who ferreted for reward to lay bare the tricks of estated magnates against the Crown. Having laid informations before the King as to the orgies of the late administration, he was commissioned to unearth its misdeeds. His arrival in Ireland caused consternation. St. John sent for Hamilton; and, as his Majesty ordained, questioned him straitly. The perturbed Deputy treated Balfour's revelations as something which had suddenly burst upon him; and Hamilton was naturally disinclined to add to his knowledge. His uncommunicativeness led to a request for the production of the originals of his Patents. No record of these had been officially kept, in order to defeat investigation; and Hamilton, aware of his advantage, demurred. He was, therefore, commanded by St. John to take down in writing, as from the King, a behest to bring them in forthwith for inspection. This was an awkward moment; and the culprit, having written out the command, asked for time, and got it.

Before the day fixed for the next heckling, Hamilton consulted Chichester; and, fortified by his courage, instead of obeying, sent an evasive letter pretending that he did not understand the royal wishes. At this St. John affected to be nonplussed; but the truth was that the task of playing inquisitor against his old confederates was distasteful to him, and ill became his past. So, instead of putting on pressure, and forcing Hamilton to produce the parchments, he weakened and suspended the inquiry.

Sir James Balfour, keen for the chase, beset him and demanded effective action in the King's name; but the sore-pressed Deputy feared either to refuse or to comply. In his perplexity, he hit on the expedient of sending a messenger to Court, begging to be spared further part in an odious duty.

His envoy was the Vice-Treasurer, Sir Francis Blundell, an underling of the Lord High Treasurer. To him the errand was entrusted of seeking out Villiers, Marquis of Buckingham, the royal favourite, and plying him with "arguments" to hush up the inquiry. Villiers (soon to be Duke of Buckingham) was all-powerful with James I.

"Those who wanted to gain the King to their ends learned that the easiest way was to approach him through his favourite." So intimate were their relations that his Majesty would say:—"Christ had his John, and I have my George." Buckingham took "presents" from suitors, pestered the Lord Chancellor with attempts to interfere in Chancery suits, and secured largesse for his pains. He retained his mastery at Court into the following reign, when his excesses led to his assassination. With such a courtier, no well-weighted appeal could fail, and Sir Francis Blundell set out from Dublin supplied with a letter from St. John, and other gear for the all-powerful Marquis. The only copy of this letter which has been preserved was found amongst the papers of Chichester's relatives. It, therefore, probably was composed by the Lord High Treasurer himself. It runs:—

"It has pleased his Majesty to employ Sir James Balfour hither, for the examination of some articles exhibited unto his Majesty against Sir James Hamilton, with especial warrant, by his princely letter unto me and some of the Council here, to receive such informations as his Majesty had committed unto Sir James Balfour's trust, to be imparted unto us. In obedience to which, we have, with all care and secrecy, proceeded therein, and given his Majesty a just account of what we have found, wherewith I hope his Majesty hath received good satisfaction. And, albeit my duty must ever tie me to obey his Majesty's Royal commandments before all other respects, yet I have suffered much in the opinion of noble and worthy personages, as well in England as here, as if I had entered into a business unfitting the place of his

Majesty's Deputy, who ought tenderly to preserve his Majesty's subjects in peace and contentment, and not be an instrument of blemishing the reputations and questioning the estates and fortunes of any man. The business of Sir James Hamilton is now brought to that estate as I hope I shall hear no more of it.

"Yet, lest his Majesty may, by information given unto him in the like nature, be drawn to employ my services again in that kind of examination concerning the lives and estates of any of those who are, by his Majesty's princely favour, committed to my charge and government, I hope his Majesty will be graciously pleased to join to mine assistance his principal servants and councillors of this kingdom, and that his warrants and commissions may be open, and the proceedings in them fair and legal. Otherwise, if I be commanded to handle them in a private manner myself alone, or with some only, whatever misfortune shall light upon any, I shall be reputed the causer of it, and cast myself into general hatred, and shall be unable to do his Majesty that service in this kingdom which he may expect from an officer employed in so weighty a charge.

"I humbly pray your lordship to hearken to Sir Francis Blundell, whom I have entreated to wait upon your lordship in this particular, and to vouchsafe unto me your honourable care for my preservation."

This could only mean that Buckingham was to get the secret procedure (which the King had ordained) quashed; and allow St. John to hold any future inquiry in public before the Privy Council, where Chichester's creatures held the majority. Blundell's "arguments" were so powerful that Buckingham prevailed on the King to drop the proceedings, and Balfour's mission ended in smoke. The "articles exhibited" by him, and the correspondence between the English and Irish Executives, are not given a place in the State Papers. Only for disjointed entries and letters in the family archives of

Hamilton and Chichester, posterity would never have heard of the perils they ran or the struggles of St. John to rescue them. The official records must have been made away with. Balfour before long was consoled for the abandonment of the investigation. To keep his mouth shut he was presented with lands in Ulster after his return to England, and therewith rested content. Amongst his papers printed in 1837 by the Abbotsford Club (Edinburgh) were copies of Hamilton's "Thomas Irelande" Letter of the 6th December, 1604, and that of the 16th April, 1605, granting Sir Con O'Neill's estate. These evidently formed part of his "brief" for the Discovery.

Even if Balfour's inquiry had been pressed home, the resourceful Chichester would not have been taken unawares. He had skilfully tampered with the State ledgers to prepare a bulwark of defence if challenged as to his part in the seizure of the fisheries. On becoming Lord High Treasurer, the rent-rolls of the Exchequer lay under his hand, and these were manipulated with clerkly art. An insertion in them in 1618 correlates with the period of Balfour's inquiry. It casually records that Lord Chichester is owner of the Bann and Lough Neagh, although everyone knew that the river had been granted to the Londoners in 1610—apart from the "surrender" by the ex-Deputy in 1611. The entry seemed quite business-like, and reads:—"Arthur, Lord Chichester, assignee of James Hamilton, knight, holds the entire fishery of the lake called Lough Neagh, and the river Bann—per annum 12s. 6d." A casual scribe might have ledgered it; yet the words amounted to a royal recognition of his title. No earlier Crown rent-roll contains such a record, and it was made seven years after the Bann had been awarded to the Londoners, by Charter, rent free.

Chichester's "surrender" disclaimed the river and acknowledged the receipt of compensation. Still, embedded in the Crown rental, by way of a scrivener's note of the trifling rent of 12s. 6d., lurked an official declaration that the Bann

and Lough Neagh belonged to him. The humblest clerk in State employ knew that no rent for the Bann was due by anybody. Yet a ledger in Government custody was burdened with this falsehood in the year in which Balfour "exhibited articles unto his Majesty against Sir James Hamilton." No reason can be assigned for the entry save one—an attempt to build up a defence to meet an expected attack by the "discoverer."

The "cooked" ledger consorts with the Lord Treasurer's past, and with what remains to be told of his future. The sequel unfolds the same unending game of grab. Each development reveals a fresh crime, and evokes renewed wonder at the miscreant's resourcefulness. As fertile in the closet as he was ruthless in the camp, Chichester may be regarded as the embodiment of those vices which, amongst the people he oppressed, made a byword of the rule he represented and the creed he sought to spread.

CHAPTER XVI.

THE ESCHEATOR FOR ULSTER.

ONCE Buckingham's protection had been purchased by the Lord High Treasurer his confidence grew apace. Alive to the danger he had escaped, Chichester strove to prevent further risks by providing legal cover for his acquisitions. His attempt to shelter them behind an Act of Parliament in 1615 had failed, but they would still, he hoped, be safe if he could obtain a Patent for everything he held, lawful or lawless, in his own name. The grants which Sir James Balfour assailed rested on unenrolled assignments from Hamilton and Bassett. Their origin could easily be traced by legal or official prying; and Balfour's foray, though thwarted, filled him with concern. Since he had been appointed Deputy in 1605, Chichester had not dared to take out any Patent in his own name unless with royal authority, however freely he practised in the names of others. He felt, nevertheless, that the stalking-horse system was out-worn; and resolved to apply for an omnibus grant, directed to himself, which should include the whole of his possessions—and as much of other people's as could be arranged for.

In 1619, assured of Buckingham's help, he besought a King's Letter sanctioning a fresh Patent in his own name. In 1620 his Majesty's consent was signified; but it was limited to "a confirmation of all his former grants by a re-grant." The King, as a further precaution, ordered a Commission "to ascertain the other persons in possession of the territory, and to establish their rights." His Majesty evidently suspected his former Deputy's pranks; but the royal attempt to prevent

their repetition was in vain. Chichester overleaped every barrier; and, now armed with the King's Letter, accomplished a feat more daring than any he had previously ventured on.

The provision that the Commission was "to establish the rights of others" he overcame by having his own backers named as Commissioners. With a view to beguiling the Londoners as to the Bann, these partisans ordered an inquisition respecting its ownership without giving the city notice of their sittings.

They were given no authority to inquire into the Londoners' property, yet they met in Chichester's pocket-borough of Carrickfergus, and empanelled a jury of his friends and underlings to decide on the title to the river. The legal extravaganza there enacted seems so grotesque that, were it not vouched for by stiff parchment, it would be scouted as impossible.

The principal Commissioner was Stephen Allen, Escheator for Ulster, who owed his post to Chichester. At Derry, a fortnight before, Allen held an inquisition for the Barons of the Exchequer, to ascertain by a local jury the number of "royal" fisheries in Ulster, and the rents payable thereout to the Crown. Allen truthfully recorded the Derry jury's finding as to the Bann, which was that the Londoners owned the entire river from the sea to Lough Neagh, rent free. In this verdict its fishing-places, tidal and non-tidal, were enumerated in the most formal way. Yet, scarcely was the ink dry upon it when, at Carrickfergus, the same Allen got a jury to make a wholly contrary finding, and to bring in a verdict that the Bann, from Lough Neagh to Coleraine, was Chichester's. He bolstered up this enormity by another. Allen's duty was to lodge forthwith the Derry "return" in the Exchequer in Dublin. Instead of doing so, he kept it back for nine years. On the other hand, he lodged the Carrickfergus "return" instanter, knowing that it was to be made the basis of a

Patent granting the Bann to his old patron. Highly-placed Commissioners, including a Bishop, abetted this misconduct.

In framing the verdict, care was taken that the assertion of Chichester's title should be made indirectly, only. The jury were got to do just enough to enable the Dublin confederates, when the "return" reached them, to shape the grant in the form he required. Nor was what Allen put on record untrue. All that was set forth was that Hamilton and Bassett obtained Patents for the Bann and Lough Neagh, and that these were assigned to Chichester—no more. There was no falsehood here—omission alone conveyed untruth. The Commissioners "forgot" the Charter to the Londoners; they "overlooked" Allen's proceedings at Derry a fortnight before; they failed to remember the "surrender" of 1611 before the Archbishop of Dublin; or the "compensation" paid to Sir Arthur. As skilled practitioners they operated on the sheltry side of the law, and left the draftsmen of the Patent to do the rest.

If the trick had been discovered before the Patent was ready, Allen would have explained that no wrong to the Londoners was intended; and would rely on the fact that he had previously registered at Derry their title as the real owners. Any repugnancy between the two verdicts, he would protest, was for lawyers to settle, and not for a poor escheator like himself. Others of the Commissioners might have found it less easy to invent a plausible excuse if exposure had befallen them; but in those days honesty had no sentinel, and the ruse was entirely successful.

"Our trusty and well-beloved, the right reverend father in God, Theophilus, Lord Bishop of Dromore," and Sir Francis Annesley, "knight and baronet, one of our principal Secretaries in our Kingdom of Ireland," were of the party. They endorsed at Carrickfergus the verdict which gainsaid the Londoners' Charter, and handed over the Bann to the official who not only did not own it, but had been rewarded

for giving up a fraudulent claim to it. Both magnates were acquainted with State policy. They knew the wishes of the King, and of the gift of the river to the City. Yet they soiled their hands as readily as if they had served an apprenticeship to the office of Deputy. Nothing was then too dirty for a dignitary.

As for the Londoners, being denied notice, they were left in the dark and made no sign. Their title having been affirmed by Allen at Derry on the 26th March, 1621, they could hardly have foreseen that on the 6th April, 1621, he would strive to undermine it at Carrickfergus. Still less were they likely to imagine that the nobleman, in whose Deputyship the Bann was made theirs, could be engaged in a plot with a prelate and a Secretary of State to filch it for himself. So they lost the non-tidal river. When the Carrickfergus "return" reached Dublin Chichester's joy was made full. A Patent was sealed for him on the 20th November, 1621, in which the Bann, from the Salmon Leap at Coleraine to Lough Neagh, with its bed and soil, were declared his property, in the King's name. Lough Neagh, too, was included, and the grant conferred a power to spread nets on the banks both of river and lake.

Everyone responsible for this knew that justice was outraged, but that mattered not. Lord Chichester could now boast that the fisheries were set in his grasp as firmly as parchment and the Great Seal could assure them. This achievement placed him on the pinnacle of conveyancing greatness. He had successfully brigaded a Bishop and a Secretary of State with an escheator, to flout the King, and got his Deputy to grant a Patent by which the Londoners were robbed. No treachery to Irish chiefs, or slaughter of kern or cleric, could compare with such a triumph.

In one respect he slightly changed his tactics. Instead of working on a single Patent, he got two made out for him—one containing the estates lawfully his, and the other those he

had crookedly come by. This plan of a double issue had not been sanctioned by the King, and in other respects he also disregarded the Royal Letter.

Not long, however, was he left in peace. Probably the Corporation got wind of the cheat, for within two months James I. took significant action. The Lord High Treasurer was suddenly ordered abroad on a mission to the Palatinate in January, 1622. His co-mate and brother-in-exile, Sir Oliver St. John, who had just been raised to the peerage as Lord Grandison, was at the same time removed from the Deputyship. It was an unexpected downfall; and evidently some detractor had again slandered them to his Majesty. Both had to quit Ireland forthwith; but their removal was dignified with solemn rites, as befitted their estate. No occasion for malicious glee was afforded to the watchful natives. Wholesome monitions were privily administered, and a new discipline as to Patents was laid down, but public scandal was avoided.

In the following May, when they were well away, the King issued a biting direction to "make stay" of future grants, surrenders, and confirmations "till some safe course might be taken for the preserving of his rents and tenures." Chichester, too, was forced before his departure to make a lease of Lough Neagh to the Londoners in perpetuity at a rent of £100 a year. As the Lough feeds the Bann, this undid much of his victory, and amounted to an admission that the river belonged to the Corporation.

It was through Buckingham's favour that the Lord High Treasurer was sent abroad, and, as his cash defalcations had probably became as notorious at Court as his Patent conjurings, the King, doubtless, sanctioned his German mission to rid Ireland of his presence. An outcry which, had he remained at home, might have led to his being brought to justice, was thereby stifled. He was told to his face in the King's presence by one of the Privy Council that he had so profited by the

Plantation that his conduct was "against the honour of the King and the justice of the Kingdom."

Chichester never returned to the country which for twenty years he had afflicted. In January, 1625, he died in London, three weeks before the death of James I. Within three months steps were taken by Charles I. to compel his heir to make good the £10,000 embezzled from the Crown out of the rents of the forfeited estates.

Fact-free Mr. Froude frames the wretch's portrait as "the great Viceroy of Ireland—of all Englishmen who settled in the country the most useful to it." Mr. Bagwell certifies in "Ireland Under the Stuarts" that "his integrity is unquestionable"!

CHAPTER XVII.

MORE "DISCOVERERS."

Lord Falkland was appointed Deputy on the 1st April, 1622. This change James I. emphasised a month later by the protest just mentioned against the abuse of his Royal Letters under former Deputies.

Shortly after Falkland's coming (Chichester being in Germany) the grants to Hamilton were impugned in the Irish Courts. Since the breakdown of Sir James Balfour's Inquiry in 1618, "discoverers" had been dumb; but, in 1623, the Exchequer Barons took action, and several "Wakeman" Patents were held to be invalid. The judgments which condemned them are not extant; but Falkland was made aware of their effect, and was urged to pursue still more sweeping investigations. Counter-pressure, placed upon him by those to whom exposure meant ruin, prevailed. He halted, and nothing further was done.

At first the new Deputy (heedful of the warning of the King) tried to enrich himself by ways which differed from those of his predecessors. His most original proposal was to make Ireland a base for Algerine corsairs, so as to draw wealth from their inroads on international commerce. Large sums were offered by him to the Duke of Buckingham, the Prince of Wales, and the Secretary of State for permission to attract these raiders to prey on shipping from Irish harbours. The design bespoke the man, and when it was rejected he gave "protections" to Dutch pirates and other Freebooters who haunted the coasts, trafficked with them, and dealt in their cargoes. Unsatisfied by his gains from such sources, Falkland sought riches in other fields. He applied for leave to confiscate

the property of the loyal Corporation of Waterford in order to seize it for himself, and when courses like these proved unprosperous he fell back into the beaten paths of previous Deputies.

Naturally he set his face against any attempt to unravel the threads of the Patent scandals, but Chichester's memory grew more and more unfragrant, and in 1627 a Munster notable, Sir William Power, lodged informations that the Wakeman Grants were "fraudulently passed without the intention of King James." Sir William at the same time denounced the Patents lavished on Boyle, the new-made Earl of Cork. Power was connected by marriage with Boyle, but was at enmity with him over boundaries. On his complaint the English advisers of the Crown proceeded to ransack Boyle's title to the 42,000 acres of the Desmond Estate, which he captured from Sir Walter Raleigh. The Attorney and Solicitor Generals for England, with three Serjeants-at-Law, pronounced it void, yet no step was taken against the "Wakeman" grants. A mysterious hand seemed outstretched to protect them.

On the 28th August, 1627, Charles I. declared the Crown was rightfully entitled to the Desmond lands annexed by Boyle under Chichester, and in 1628 Sir William Power journeyed to London to feed his grudge and fill his pocket. He saw Mr. Hadsor, the King's Lawyer in Irish affairs, who certified that Lord Cork's Patent of 1614 was unsigned, and that he "believed it may be false." The reflection on Chichester's Deputyship which this carried was far-reaching. Hadsor valued the Royal interest in the lands at £50,000 (now half a million). He complained that the Attorney-General gave away his legal secrets to Lord Cork, and on the 23rd August, 1628, the murder of the venal Duke of Buckingham by Felton at Portsmouth removed one mainstay to dishonesty. So on the 3rd September, 1628, King's Letters condemning the grant were sent to Lord Falkland by Hadsor. As to the rest

of Power's "discovery" Hadsor (as before) said nothing. Possibly after the Attorney-General's treachery he thought his hands too full to attack the Wakeman Patents. He was well-advised, for hardly had he taken action when the inevitable fairy godfather to rascaldom lit upon the scene. Lord Cork invoked the help of other corrupt courtiers, and a "coat of darkness" was thrown over the traffickings of landsharks both in Munster and Ulster. This saved the Desmond Estate for Boyle, and by the same agencies the onslaught on the Wakeman Patents was broken down. The knaves were all interlinked.

Later in the same year (1628) Colonel Forbes, a Scotch laird (ancester of Lord Granard), who had come to Ireland in 1620, with his clan, to quell disturbances, appeared as a "discoverer." Forbes had been rewarded for past services with a baronetcy and grants of land in Leitrim and Longford. Undiscouraged by former failures, he brought the Wakeman Patents anew under the eye of Charles I.—probably reckoning that Buckingham's death had banished the chief obstacle to justice.

Forbes's petition was referred to the Commissioners for Irish Causes in London, and they reported favourably on it to the King. Falkland was ordered by his Majesty to recover the property for the Crown and to confer on Forbes one-third of the Ulster Fisheries with a gift of £300.

By this time, however, the Deputy was plunged in the throes of a scandal springing from his own misdeeds. He had promoted the attempt to seize the estate of the last Gaelic Chief, O'Byrne of Wicklow, and dared not suffer his assistants to be impeached for former wrongdoing. To allow Forbes to take the lid off the cauldron in which the hell-broth of the previous reign lay simmering was not Falkland's notion of statecraft. The new "discovery" was no more to him than that of Sir William Power or Sir James Balfour, and less than that of the Exchequer Barons.

Possibly he quieted Forbes with the gift of £300, for the "discoverer" went abroad soon afterwards and never returned, being killed in a duel in Hamburg in 1632. Still his shipping-off did not benefit Falkland, whose agony was about to begin. The eyes of England, as well as Ireland, were fastened on his treatment of the O'Byrnes, and both kingdoms resounded with rumour against him. Throughout two reigns and three Deputyships the persecution of the O'Byrnes lasted. It comprised the whole art and mystery of Patent-shuffling and confiscation. To understand the story is to understand the methods and policy of Chichester and his successors. It is the Southern counterpart of the Ulster tragedy.

The reasons which impelled the Northern Lords—O'Neill, O'Donnell, and Maguire—to go into exile can best be realised by studying the doom of the Wicklow chief who held his ground. Carte (an English Protestant historian), writing in 1736, summarises the case as "very extraordinary, and contains in it such a scene of iniquity and cruelty that, considered in all its circumstances, it is scarce to be paralleled in any age or country." Since then, Carte's disclosures have been supplemented by State papers and other records which furnish dates and details that he lacked. They confirm the judgment on his work passed by Dr. Johnson, who styled it "that book of authority." Carte's narrative largely follows the "Remonstrance" lodged on behalf of the O'Byrnes, which fails to disentangle the parts played by Chichester, by St. John, and by Falkland, but mingles all together. In the following condensed account the action taken by each Deputy is separately shown, while needful particulars are added from the State Papers and Patent Rolls.

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CHAPTER XVIII.

LORD FALKLAND'S SHAME.

THE harrying of the O'Byrnes under Chichester was largely carried out through Sir William Parsons, his Surveyor-General—a seasoned and hardy pillager. Parsons was a Commissioner at Limavady in 1609, when the inquisition which "found" the Bann for Sir Arthur to forestall the Londoners was concocted. In 1621 St. John nominated him to take "office" for the fabrication of the "Carrickfergus" Patent which abstracted the non-tidal Bann from the Corporation. He was the chief author of the Antrim inquisition of 12th July, 1605, which "found" that the King owned the "pool" of Lough Neagh "towards Claneboy."

For twenty years Parsons' leisure had been devoted to trying to rob Felim O'Byrne, who stood by the Crown in trying times, despite the slogans of O'Neill and others to "rise out." O'Byrne's father (fighting Feagh MacHugh) had been made prisoner, and his head spiked over the Tower of Dublin Castle. His mother (Rose O'Toole) was convicted of treason and sentenced to be burnt on the 27th May, 1595.

Queen Elizabeth, however, in 1598 ordered Felim Patents of his estate as a reward for good service, and issued a "general pardon" to him and his helpers on the 3rd March, 1603. James I. on 16th September, 1603, in his "instructions for Ireland," commanded that O'Byrne's "country" be given to Felim according to such limitations as the Lord Lieutenant should prescribe. Nevertheless Sir Richard Graham, one of the Commanders at the victory of Kinsale, obstructed the issue of any Patent. and got two "offices" taken by Parsons as Surveyor-General on the 14th March,

1604, to try to oust Felim altogether. These inquisitions—strive as they might—went in favour of O'Byrne, and on 26th March, 1606, he received a Patent. His territory was set down (by the usual trick of diminishing coveted land) at twelve thousand acres, exclusive of bog, wood, and mountain. It included the districts of Ranelagh and Cosha in Co. Wicklow, and the owner's proved loyalty was certified by Devonshire. A fortnight after the date of Felim's Patent, Devonshire died, but for some years O'Byrne was left in peace. Then came the Ulster Plantation and the dispersal of its Chiefs. When the North was crushed Chichester, in spite of Royal Letters and "offices," authorised Graham to seize part of Cosha for himself.

Knowing to what this must lead, O'Byrne petitioned the English Privy Council for justice. An Inquiry was ordered, and Graham thereat contended (in the teeth of English policy) that the clan-lands belonged to the kerns as freeholders, and not to the Chief. The Commissioners scouted this doctrine and reported in Felim's favour. To hold otherwise would have knocked on the head the Tudor system of vesting the tribal territories in the Chiefs and then voiding their Patents so that escheats might be easily obtained. Sir Richard Graham, smarting under defeat, and doubtless primed by Chichester (although he had now ceased to be Deputy), sent his son to London to bribe Villiers, afterwards Duke of Buckingham, to influence his Majesty to disregard the Commissioners' report.

The Earl (afterwards Duke) of Richmond, another favourite, was procured to crave fair play for O'Byrne. The strife at the Council table between the courtiers grew so high that the King allowed them each to name two Commissioners to re-try the case. This was unjust to Felim, who had already proved his right twice. Still he had to take such mercy as he could buy. Mr. Hadsor and Sir Francis Annesley were on this Commission, and Hadsor spoke Gaelic.

When the third hearing was opened, Parsons came forward to confirm Graham's story that the clan-lands were those of freeholders and were not O'Byrne's. He produced a book written out by himself to prove it, but O'Byrne demolished the invention by giving in evidence the "inquisitions" previously taken under Parsons' hand. These certified the Chief's ownership, and proved that the "book" was trumped up. Unabashed, Parsons and Graham fell back on the shift practised by Sir John Davies in 1607 at the trial of O'Cahan v. O'Neill. They reshuffled the cards and argued that the lands belonged to neither disputant, but had escheated to the Crown on the death in rebellion of Feagh MacHugh.

In England no escheat without trial and no post-mortem attainder could take place unless Statute authorised it in a special case. There an attainder after death was not tolerated, even against Jack Cade (an Irishman), but Anglo-Irish lawyers disregarded everything that tempered a violent prerogative. Therefore, although both King James and Queen Elizabeth had granted the estate to Felim, and Graham's pretensions were exploded, the Commissioners adjourned the Inquiry.

previous / It was probably in connection with this investigation that the "Egmont MSS." record, under date 20th November, 1612, that Sir Richard and Thomas Graham were fined and imprisoned for disturbing a Commission which sat at Imaal, Co. Wicklow, to inquire into concealed lands of the Crown. They beat the witnesses, calling them "a company of garron-stealers and thieves," threatened Peter Delahyde, one of his Majesty's counsel, and drew swords on a gentleman who rebuked them. Years were now wasted over the dispute, and in 1616 St. John succeeded Chichester. Parsons asked the new Deputy to appoint himself and other choice spirits to inquire on behalf of the Crown into the alleged escheat. St. John, as became a pupil of Chichester, cheerily agreed, and on the 4th July, 1616, Parsons made a "return" declaring that

O'Byrne's lands were the inheritance of Feagh MacHugh killed in rebellion.

This naked statement was true, but not the whole truth. Its half-truth was equivalent to a finding that the property had escheated to the Crown in spite of the Royal Letters of Elizabeth and James recognising Felim. Zeal for the Crown was the pretext for Parsons' inquisition; but once an escheat was declared the King's interest sank out of sight and Graham was empowered to seize O'Byrne's estate for himself. Once more the Chief appealed to England. There justice was slow, far off, and dear; but he got it; and on the 4th November, 1616, Felim obtained a King's Letter requiring St. John to regrant him the lands. This command was flagrantly disobeyed. Piety was the badge of all plunderers, and Graham had promised to endow two churches in Cosha to spread the Lutheran gospel. Such love for religion, pure and undefiled, moved St. John on the 24th February, 1617, to give him a Patent for Cosha.

Again Felim resorted to London, and again a fresh Commission was issued to do him right. The new Commissioners, on the 17th December, 1617, confirmed O'Byrne's title, but with dogged tenacity Graham got St. John to appoint judges to re-hear the dispute. The struggle seemed unending, and although evidence was taken afresh by the judges they dared not announce a conclusion either way. On the 23rd January, 1618, St. John transmitted their notes to London and asked for directions. Delay and expense provoked a compromise, and Felim by a new order was restored to three-fourths of his lands, but Graham's piety in purveying a brace of churches for Cosha was rewarded by one-fourth. To leave O'Byrne insecure, no fresh Patent was issued to him; and soon afterwards Lord Falkland became Deputy.

Parsons was now promoted head of the Court of Wards and Receiver-General, but he remained as of yore a-swoop for prey. The plot against the O'Byrnes was revived. Felim,

being the only Chief left in Erin, was treated as a blot on the landscape, and in 1622 Falkland reported him to the Privy Council as an ill-disposed person. He owned too big a property to be allowed remain in his mountains undisturbed. The reply to the Deputy from England, however, discouraged attack. The "Spanish marriage" was at that moment being negotiated by Buckingham, and Falkland learnt that, if the heir to the throne were to wed a Catholic, a fresh persecution of his bride's co-religionists might appear untimely. When the match with Spain was broken off in 1623 he took a freer hand.

On the 27th August, 1624, he authorised Parsons to hold a Commission to examine O'Byrne's title, as if it were a new problem troubling the sages of the law. The Surveyor-General held "office," and returned a finding that Felim's estate had been forfeited by his father's rebellion and death—ignoring both grants and pardons from King James and Queen Elizabeth. Falkland, ablaze for law and order, wrote to the Privy Council on the 25th March, 1625, asking them to consider "how vain a thing it is to suppose to content Felim and his sons by indulgently suspending the taking of the lands in his country." The English authorities gave this presentation of the equities no countenance, and King James, in one of the last dispatches before his death (March, 1625), begged Falkland "to maintain inviolable the credit of his great office."

Yet Charles I. was not a year on the Throne when the Deputy engaged himself in a still more cruel plot to uproot the O'Byrnes.

On the 13th March, 1626, he ordered the eldest and youngest of Felim's sons, Brian and Turlough, whom he described as "the most civilly bred of all his sons," to be arrested as "dangerous conspirators." They were kept prisoners in Dublin Castle for five months; and all the enginery of the State was employed to suborn witnesses

against them. Neighbours were seized and subjected to torture. One Archer "was put naked on a burning gridiron and burnt with gunpowder under his buttocks and flanks, and at last suffered the strapado till he was forced to accuse the brothers." Two poor wretches named Kavanagh yielded on the rack and consented to swear falsely; but, when their agonies ceased, they retracted. For this they were sentenced to death, and were offered "pardon" if they would repeat the "evidence" in court. Their constancy remained unshaken, and both were hanged. This shortage of perjurers led to a crisis. "True bills" on which Brian and Turlough could be arraigned had to be "found" by a Grand Jury. Being Wicklowmen, the brothers were ordered for trial to another venue. Carlow was as illegal as any, but the Grand Jurors there twice declined to find "true bills." Twice were they brought up in batches to the Star Chamber in Dublin and fined, but twice they refused to yield. They would not "find" for any fining. Perhaps they recalled the reward meted out to the foreman of the Lifford Grand Jury, Sir Cahir O'Doherty, for declaring Hugh O'Neill an "outlaw" twenty years earlier. Thanks to their obstinacy, the brothers were set free, and Brian O'Byrne sailed in triumph for England. There he was received at Court, and on the 29th August, 1627, he secured two fresh Letters from Charles I. recognising the family title.

Thus the warrants of three British Sovereigns—Elizabeth, James, and Charles—affirmed their rights. Still Falkland entertained no idea of being hindered by royal stumbling-blocks. The only effect of Brian's success on his mind was to resolve him to a fiercer vendetta. This time he proceeded on a grand scale, and on the 2nd November, 1627, ordered Felim with his five sons (including Brian and Turlough) to be committed to prison in Dublin Castle. There they were loaded with irons, denied food for a long period, and were deprived of visits.

The crime of which they were accused was that they had relieved a banished man named Kavanagh who returned home before his seven years of deportation had run out. This was true, but the man was unknown to them. Kavanagh had never been convicted, nor was he outlawed, and hospitality was merely given to a passing stranger. This was no offence, although it might be docketed in the twentieth century as "hostile association."

Falkland, having now the whole family in his clutches, prepared the finishing stroke. On the 5th July, 1628, he represented to Charles I. how "absolutely inconvenient" it would be to allow the O'Byrnes to hold "the territory of Ranelagh." They were already bereft of Cosha, and on 22nd July, 1628, he began taking depositions against them, in secret signed with his own hand—with Sir William Graham (son to Richard) as Gaelic interpreter. A week later, without waiting for any reply or authority from his Majesty, or procuring their attainder, the Deputy proceeded to distribute the remainder of O'Byrne's estate piecemeal amongst his confederates.

Seven Patents for Ranelagh (unsupported by any King's Letter) were issued by Falkland to his subordinates in August, 1628. The recipients were Sir Willam Parsons, Sir William Graham (the translator), Lord Docwra, Lord Esmond, Sir Roger Jones (the "rascal's" son, afterwards Lord Ranelagh), Sir Thomas Stockdale, and Lord Chancellor Loftus. The last-named, although an enemy of the Deputy, had as Lord Chancellor to be given a morsel, to keep his mouth shut, and consent to apply the Great Seal to the parchments of the other six.

That the Patents were without Royal sanction is clinched by the answer the King gave on the 4th September, 1628, to Falkland's dispatch of the 5th July. Therein Charles I. tells him, after the Patents had been issued: "It is our pleasure that you shall set down your further opinions precisely what

is the best course to be taken for the settling of those lands," and he promised then to "declare his resolution touching the same." A month previously the Patents had been distributed amongst the Seven Champions of Law and Order. Having stolen the property of the O'Byrnes, Falkland next proceeded to concert measures to do away with the family altogether.

In August, 1628 (the month in which the Patents were sealed) the Chief and his sons were arraigned at Wicklow. Warned by the Carlow fiasco, Parsons saw to it that the Grand Jurors should be men having no qualification to serve. He mustered a faction of stalwarts in Wicklow Courthouse as a counterfeit Grand Jury, who readily found "True Bills" against the prisoners. Their guilt, however, had still to be proved before a Petit Jury; so the trial was put off, and everyone likely to be a witness for them was seized under martial law and put on the rack, or hanged.

These oppressions, tortures, and captivities shocked the country, and the wail of the Clansmen arose on the westering winds. Its echo was heard even in England. Wherefore, Sir Francis Annesley (Lord Mountnorris), who had acted as one of the Commissioners in the dispute raised by Sir Richard Graham, as to Felim's title, flamed up against Falkland. Annesley had assented to the Patent-outrage at Carrickfergus in 1621 in behoof of Chichester, but the Wicklow tragedy was too black for him. Largely by his influence a Royal Warrant of unusual peremptoriness was dispatched to Dublin on the 3rd October, 1628. It ordered the suspension of all proceedings against the O'Byrnes, and commanded the Deputy not to reply, lest he should make correspondence an excuse for delay. It appointed a Commission consisting of the Protestant Primate—Ussher; the Protestant Archbishop of Dublin—Bulkeley; Lord Chancellor Loftus; the Chief Justice (Sir George Shurley), and Sir Arthur Savage, Vice-Treasurer, to inquire into the case. Felim, however, was first declared by the Privy Council to be

"not only unblamable, but to have been of extraordinary obedience." The Duke of Buckingham's assassination in the previous August had laid a powerful opponent low.

The Commissioners sat in Dublin for a fortnight in November and December, 1628, and took the depositions of 37 witnesses. They probed no point of title and confined themselves to the criminal charge; but in the result the O'Byrnes were fully exonerated, and were restored to liberty after a close confinement of 14 months. This blow at oppression resounded through the land; but it came too late to undo the Patents of August, 1628. The plunder of Felim, after a struggle lasting a quarter of a century, had been consummated. He died within a year of his release. His wife, heartbroken by the action of Parsons' Grand Jury, which she supposed meant destruction for her sons as well as her husband, perished within two days of its finding. By order of Falkland her body was dug up and carried away three weeks after its burial in Wicklow Churchyard. The local vicar, Fox, attended to the exhumation, and the remains were removed to Rathdrum. There they were again disturbed, but after identification "the State" allowed the earth to be closed over the corpse. This indignity has never been explained or denied.

Falkland, in a letter to the Privy Council (8th December, 1628) tried to excuse his courses against the family, but his dispatch makes sorry reading. It consists of abuse of the Royal Commissioners (except the Primate and Chief Justice), and of attacks on the reputation of Felim. The father of the gallant who fell at Newbury attempts no reply to any of the evidence taken by the Commission as to the arrests and cruelties. That remains unanswered to this day.

In April, 1629, Falkland was recalled by the unanimous voice of the Privy Council. He wrote to Charles I. on the 13th April, 1629:—"I hear that the question of Felim is to be made the ground of my recall owing to the machinations of the Chancellor and Commissioners. It is a disgrace to your Royal

Justice that I should be recalled before being heard in my defence." The King did not reply. In July, 1629, the Lord Chancellor (Loftus) and Lord Cork were ordered to "take up the Sword" and act in his place.

Falkland remained in Dublin for several months, and the spirit which beset him burns fiercely through his final dispatches. He threatened Sir Francis Annesley with the Star Chamber for his "undutiful contempt" in saving Felim. He sued Sir Arthur Savage for alleged debt; and his warning to the English Secretary of State gleams with a comic touch:—"I pray you think of the results that will follow if Patents (which Gondomar* did term the common faith) be overridden. Your fortune rests on the sanctity of such Patents."

He returned to England not hopelessly disgraced, for he was appointed to the Privy Council; and the King allowed him to name a Committee of that body in November, 1629, to investigate his conduct. If the Committee reached any conclusions or took any evidence they have been withheld from the world. On the 12th November, 1629, he boastfully wrote to Primate Ussher that at Court there was "not one wry look in any creature towards me."

Falkland's daughter married Sir Terence O'Dempsey, who was also implicated in the conspiracy to strip the O'Byrnes. In 1631 the ex-Deputy's retirement was soothed by O'Dempsey's being translated into "Lord Glenmalire."

The King having ridded Ireland of Falkland, thought Deputies a trifle out of fashion. So Lord Cork and Chancellor Loftus were allowed to govern the country for nearly four years as "Justices." In that interval their own Patents, at least, were safe from scrutiny. Lord Cork sometimes scattered gems of wisdom through his correspondence as lustrous as Falkland's. In 1631 he sighed:—"This place is

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*The Spanish Ambassador to London.

not a comfortable one unless a man consoles himself by making a private fortune—as has been the custom of my predecessors."

Under Strafford, in 1639, a Statute was passed whereby the "Birns Country" with "Ranelagh, Cosha, Shillela and Vartry" were declared the King's. This was done, apparently, for the purpose of enabling valid Patents to be issued. By this arrangement some of the O'Byrnes must have recovered patches of their estate, as they paid the Crown £17,000 for "remedy of Defective Title." Ere the century ended Cromwellian and Williamite confiscations made this investment a barren one for the family.

CHAPTER XIX.

STRAFFORD, PATENT-BREAKER.

When Lord Falkland left Ireland, the question of the validity of the Wakeman grants was re-opened under the rule of the Lords Justices.

In 1630 a "case" was submitted to Sir Robert Oglethorpe, one of the Barons of the Exchequer, who in 1623 had denounced their origin. Oglethorpe retired in 1624 from his position in Dublin as judge (probably owing to his uncomfortable uprightness in Patent matters); and resumed his practice at the Bar in London. The "case" he received was incomplete, and its framer is unknown, but though omitting much, it is startling enough. It sets out that five Patents had been issued on foot of Wakeman's Letter for £100, "in value surmounting £4,000 per annum," including one for the fishery of the Bann. It foreshadowed that further grants were in contemplation, and asked the ex-Judge for his opinion as a lawyer if the King could have all of them declared void by legal process?

Oglethorpe's reply shows that he and the other Exchequer Barons ruled against the Wakeman Patents in 1623, and that this decision "was certified to the Lord Deputy (Falkland) upon referment from his late Majesty." He again branded them with "fraud" and "deceit," and advised that this taint would "extend to many Letters Patent in Ireland"; for, quoth he, "this is a great and general case."

When this "opinion" was delivered Lord Cork, prince of Patent-mongers, wielded the Sword of State with Chancellor Loftus, and of course no action was taken. In 1632 Charles I. made up his mind to replace both Lords Justices;

and in the following year there arrived in Dublin a Viceroy less dishonest than Ireland had known for some time. This was Wentworth, Lord Strafford. Whatever his faults, the new Lord Lieutenant hunted down those who had preyed on the country since Elizabeth's reign, and in the eight years he served as Viceroy he earned the hatred of every confiscator. Those whose avarice he checked or penalised, including Patentees like the Earl of Cork and Sir John Clotworthy, were Strafford's chief enemies. When he perished on the scaffold, their self-interested testimony spoke his doom. Many of his processes were, of course, expedients to provide revenue for the King in order to dispense with the summoning of Parliament. Others were well-grounded investigations to recover property of which the Crown had been cozened.

Strafford had to deal, not only with lawless Patents, but with Patents which, if lawful, conveyed, in acreage and value, lands largely in excess of what the King had authorised. He was not three months in Dublin before he obtained an insight into the ways of his predecessors. On the 23rd October, 1633, he reported that, "in all the Plantations, the Crown had sustained shameful injury, by passing in truth ten times the quantities of lands expressed in their Patents, and reserving throughout base tenures in soccage." As to those who "held the Sword" before him, he remarked:—

"The late Lord Chichester had lands to the value of £10,000 in one gift; and Lord Falkland £10,000 in money at once." His Chaplain (afterwards Bishop) Bramhall, wrote to Archbishop Laud five years later:—"I think I should soon be able to show that the Crown has been defrauded of many appropriations, for here it hath been usual . . . upon a Letter for £20 to pass £30 or £40 . . . to pass that for nothing, in time of peace, which was found to have been worth little or nothing in time of war; and to take up appropriations as gentlemen do waifs in England." These comments reveal

only a surface acquaintance with the misdeeds practised against the Crown by its trusted servants.

In the year after Strafford's arrival he provided a remedy for some of the evils which corroded justice by causing Acts to be passed extending the "Statute of Uses" to Ireland, and clothing the Commissioners for Defective Titles with far-reaching powers. The first Act made secret conveyances impossible; and the second authorised the Commissioners to issue Patents which should stand good against the Crown, even if wrongfully obtained or corruptly enlarged, provided fines were paid. The Government was in debt; and, in order to raise cash, many grants, new and old, were assailed. Fines were then exacted as the price of indefeasible Patents.

In 1635, when the Star Chamber at Westminster declared the Charter of the London Corporation forfeit, Strafford's eye detected an unforeseen consequence. The Londoners, being compelled to surrender the Bann and the rest of their Irish estates, were left burdened with a rent of £100 a year to the Chichesters for Lough Neagh under the lease of 1622. Deprived of the river, Lough Neagh became useless to them; and they probably petitioned the Crown for relief. Strafford then caused the Chichester Patents to be scrutinised, and the misdeeds of his predecessor came to light. Yet he dealt not ungently with the dead peer's heirs. Instead of re-seizing the whole of their ill-gotten possessions, he confined himself to demanding a surrender of Lough Neagh. At the outset the Chichesters resisted, but the stream of authority against the validity of their grants soon swelled to a torrent. Strafford knew that constant protests under two reigns had been lodged against them.

Their base origin in 1603-4, Sir James Balfour's inquiry of 1618, Allen's repugnant findings at Derry and Carrickfergus in 1621, the ruling of the Exchequer Barons in 1623, the "discovery" of Sir William Power in 1628, and the order

of Charles I. on Colonel Forbes's petition in the same year, covered them with discredit. In 1630 the "opinion" of ex-Baron Oglethorpe openly alleged "fraud"; and Strafford, backed by these accumulated condemnations, took action.

He first caused an inquisition to be held at Wicklow in 1636, to impeach one of the Wakeman grants. The result was that lands confiscated from the O'Tooles, which had been patented to Hamilton, were declared re-vested in the Crown. Grants springing from Thomas Irelande's Letter (on which the title to Lough Neagh rested) evoked no greater respect. After the death of Lord Chichester, his heir did not even rely on the Patents of the fishery. For in 1625 Edward Lord Chichester (the second in succession) besought Charles I. to appoint his son Arthur (afterwords Lord Donegall) "Admiral and Commander of Lough Neagh" at a salary of £30 6s. 8d., and to give him a "licence" to fish in the Lough and the Bann. What owner would petition the Crown for a "licence" to enjoy his own fishery?

Such a request amounted to an admission that the Patents of Lough Neagh to Hamilton in 1606, to Bassett in 1608, and to Lord Chichester in 1621 were waste paper, and that the hope of the family lay in reviving the "life-estate" annexed to the quasi-military "command" created by the Patent of 1604. It was at least possible for them to argue that some germ of legality attached to that Patent, yet Charles I. never granted the request.

Strafford was unaware of any claim by the family to the Bann; but was resolute to enforce the surrender of Lough Neagh. The fact that since 1622 the Londoners had paid £100 per annum for it to the Chichesters, and would have continued to do so if the Star Chamber had not deprived them of the Bann, had to be taken into account. He made up for the loss by offering an attractive compensation. He proposed to allow Edward Lord Chichester to take out a fresh Patent for all his uncle's acquisitions minus Lough

Neagh—and this under the new Act would be valid for all time against the Crown. The family would thereby be forever quieted in the enjoyment of rich territories which had been stolen from the natives thirty years earlier. Negotiations on this basis were conducted through the Commissioners for Defective Titles, and lasted some years.

The records of that body were housed near Dublin Castle, and perished by fire in 1711; but from the "memorials" enrolled in Chancery the main story can be traced.

A King's Letter of the 24th September, 1638, was obtained by the Commissioners to authorise them to accept the surrender. No mention was made of the Bann, for no one regarded it as Chichester's. The King's Letter cast doubt even on his right to Lough Neagh, and sarcastically narrates that his Majesty had been informed that the fishing and soil thereof were "granted away" by Letters Patent to the late Lord Chichester, but were found "so commodious for upholding the fishing of the Bann that the London Corporation were necessitated to farm the same at £100 a year—which fishing of the Bann is now come to our hands." Short work was thus made of the 1621 Patent and of Allen's "finding" at Carrickfergus. The Letter further recited that Viscount Chichester had compounded for a surrender of Lough Neagh in consideration of £40 a year; and that this sum could be deducted from the rent payable to the Crown under a new Patent. The Chichesters were to have liberty to take salmon for domestic use, and to retain the eel-weirs at Toome, subject to royal regulations.

On the 7th December, 1638, the Commissioners made an "Order of Composition" embodying these terms, but the family evidently contended that the allowance of £40 a year was not a fair set-off for the £100 paid by the Londoners. Brisk haggling followed, and at length Strafford agreed to an amended "Order of Composition," dated the 19th September, 1639. This raised the £40 annual allowance to £60, but all

privileges of fishing were withdrawn. The Chichesters agreed. This amendment brought their rent under the proposed new Patent to within £2 16s. 6d. of that previously paid, and the fine was fixed at £467 17s. 6d.

An indefeasible Patent was now to be granted them, and with this bargain they and Strafford were satisfied. The arrangement dealt a deathstroke at the oft-challenged title of the Devonians to the great Ulster fishery. It submerged the Patent of 1604 with those of 1606, 1608, and 1621 in a common condemnation.

When the terms of the surrender came to be drawn up in 1639, although the King's Letter mentioned Lough Neagh only, Strafford required that the Bann should be also renounced, and this was agreed to. Before he finally left Ireland the new Patent was not ready. It was sealed in September, 1640, by his Deputy, Wandesforde, after his departure. Everything was accepted by the Chichesters without a murmur. Neither on Strafford's impeachment at Westminster in 1641 nor when the Planters in the Dublin Parliament impeached his chaplain, Bramhall, did they join in hounding him down.

Edward Lord Chichester then sat in the Irish House of Lords, and his son, Sir Arthur, in the Irish Lower House; but they never took the side of Strafford's enemies, although both assemblies were worked upon by Sir John Clotworthy and the Earl of Cork to purvey testimony against him. This fact bears vitally on future events in view of allegations made in 1661 by Sir Arthur (then Lord Donegall) to befool Charles II. into making him a regrant of Lough Neagh and the Bann. Sir John Clotworthy, who was Pym's instrument in promoting Strafford's impeachment, sat with Sir Arthur in Dublin as member for Antrim; and, if the Chichesters had a grievance against the Lord Lieutenant, Clotworthy would not fail to refer to it in his evidence, even if the family kept silence. The report of Strafford's trial

proves that, while Clotworthy, Lord Cork, and others loudly testified against him, no complaint of injustice on Chichester's behalf was made. This attitude amounted to a confession that the fisheries which had been wrongly come by were rightly taken away.

Still, amidst the uncertainties of the times, the family were ready to seize upon any chance that presented itself to win them back. Departing from an otherwise universal practice, they left the new Patent unenrolled, although the Crown at once enrolled the surrender. Their omission was the more striking because the Patent was the only unimpeachable evidence of title to their estates which they possessed. Neglect could not be imputed as the reason for it. Their calculation evidently was that, by keeping the terms of the Patent secret, they might by some turn of fortune be enabled to recapture the fisheries without the world knowing that they had been forced to yield them up.

Nor was this a far-fetched expectation in those days, as, even if the surrender became public, everyone knew that a surrender was not an unusual prelude to a regrant. No one, therefore, could affirm, as long as the Patent could not be inspected, that they had no claim to Lough Neagh or the Bann. Non-enrolment hid its scope from inquirers, and was part of a design to attempt the recovery of the coveted waters whenever occasion offered. Strafford's execution, and the untimely death of Wandesforde, who perished in grief at the Lord Lieutenant's fate, helped their plans. Then sudden as a lightning flash to sear the meshes of their webs broke the Ulster Rebellion of October, 1641.

Sir Arthur Chichester was at that time Governor of Carrickfergus, and his garrison there furnished the soldiers who massacred his Catholic tenants (with their women and children) by night in Island Magee. Whether this bloody business preceded the insurrection of 1641 and provoked it, or was a reprisal following thereon, is a moot point between

the partisans of the Planters and those of the expelled natives. The first attempt at its "history" by Chichester's muse laid the blame on Scottish regiments. It was soon proved that no Scotch soldiers landed in Ulster till after January, 1642, the date assigned for the crime by the Settlers. "January" was too hurriedly chosen by the apologists for slaughter, and this, perhaps, because the Governor of Carrickfergus would have been able to show that he was then somewhere else.

When the time of the arrival of the Scotch regiments was established it was too late to change "January" to another month. Sir Arthur himself remained mute. He offered no defence or explanation for the crime, nor announced that any of the garrison were punished, or even admonished. As to whether he was a man capable of perverting dates or inspiring falsehoods his conduct in other fields of enterprise may assist to a conclusion. One test of his character in this respect is supplied by the documents and statements he put forward to regain the fisheries when kingly power was re-established. If he made a false case concerning the title to real estate he may well have devised excuses to escape the blame of blood-guiltiness for the killing of his serfs.

Whenever massacre benefited the Planters enough murderers always survived to inspire pamphleteers and historians with their version of the "facts." Native imitators generally ended their activities on the gallows, and their epitaphs are framed by their executioners. In tracing such incidents of conquest—from Gaul to Mexico—it is inevitable that the earliest and best opportunities for penmanship and "impression" should be always enjoyed by the triumphant faction.

That the rebellion of 1641 entailed sufferings on many Planters as severe as those endured by the natives whom they had driven out a generation earlier is beyond question. As the movement spread, the clansmen of the O'Neills, O'Dohertys, O'Cahans, O'Donnells, and Maguires retook their patrimonies, and again ate fish on Fridays without paying

toll to strangers. The South then took fire, and England, having her own rebellion on hand, lost control over the greater part of Ireland for a dozen years.

Not until 1653, when Cromwell, in command of the English rebels, bloodily ended the struggle, was the country subdued. Then the clearances of the Ulster Plantation were extended to Leinster and Munster. "Commonwealth" ordinances proclaimed a new "settlement." James I. aimed at planting a province. The Ironsides applotted a kingdom. One of the Statutes of the Long Parliament assured the Irish, in an amiable preamble, that "it was not intended to extirpate their nation as a whole." Thanks to this moderation, only three of the four provinces were parcelled out among the soldiers, and the bracing crags and bogs of Connacht were left largely to the Catholics. Still Oliver's Plantation, though thorough, did not meet with complete success. It withered with the despotism that begot it.

During his sway a strange chapter was added to the story of the Northern waters.

CHAPTER XX.

THE PURITAN SCRIVENERS.

In February, 1654, the London Corporation petitioned Cromwell to be restored to their Irish estates. The Protector readily consented. Indeed, his kingly victim had promised in 1641 to cancel the confiscations of the Star Chamber. A Commonwealth Patent regranting everything that had been seized from the City by Charles I. was enrolled at Westminster and Dublin in March, 1657. The Londoners retook possession beforehand, and once more became masters of the Bann.

Hardly were they reinstated when they fell victims to a second parchment-plot to filch the river away. This time it was contrived not by the Chichesters but by one of their prayerful pupils, Sir John Clotworthy. That adventurer (mentioned already as Pym's tool in compassing the death of Strafford) was son to an old servitor of the "great Deputy," Sir Hugh Clotworthy, who came to Ireland during the Elizabethan wars, and was appointed "Captain of the Boats" on Lough Neagh. In 1605 Hugh received from Chichester a grant of the lands of Massereene, and was afterwards knighted by him. In 1618 Sir Hugh was awarded a pension of 6s. 8d. a day for the joint lives of himself and his son, John, then not twelve years old.

Much history turns on this episode. Pensions for joint lives had just been prohibited by royal order, and Sir Hugh's salary as "Captain of the Boats" was only £40 a year, while a pension of 6s. 8d. a day comes to £121 13s. 4d. a year. Even in Stuart days such a job could not stand.

It took four years to unmask; and then, under pressure, the pension was gracefully "surrendered."

After Charles I. came to the throne, Sir Hugh took advantage of the ignorance of the new Crown officials to ask for compensation for the "loss" of the pension. Although he deserved the stocks for having originally outwitted the Exchequer, the King in 1628 gave him £700, with a promise that his son should be appointed to a "company of horse." Sir Hugh died in 1631; and, two years later, Sir John petitioned for his "company of horse." The flight of time, and the changes in the personnel of the Government, had caused the case to be forgotten, so Sir John invented a new version of the pension, and kept back the fact that his father had received compensation for its loss. His petition was not granted; and when Strafford became Lord Lieutenant Sir John's prayers ceased, for his political and religious leanings were not on the royal side.

As a member of the Irish Parliament, Clotworthy now began to mark himself out as a pugnacious Presbyterian. Hence Pym, and his backers in the English House of Commons, caused him to be elected for the pocket-borough of Malden, to abet their designs at Westminster against Strafford. There he became so zealous that for years he was an outstanding figure on all Committees manned by the anti-royalists. He helped to bring Strafford and Archbishop Laud to the scaffold, as well as his old school-fellow, Lord Maguire, and was of use to Cromwell in smoothing his path to power. In time, of course, Sir John met with the usual fate of the zealot, being expelled from the House of Commons and accused of embezzling war-stores intended for Ireland. In 1648 he fled to France; and, on venturing to return, was imprisoned. Cromwell released him, and later on admitted him to favour. To Clotworthy the saying is attributed that: "Religion should be preached in Ireland with the sword in one hand and the Bible in the other."

When the wars ended, such a man found Oliver easy of approach, and he revived the demand for his "pension." He had received his "company of horse," and his father had pocketed £700 compensation; but, being a sturdy beggar, he got his petition referred to two leading Undertakers and friends, Lord Broghill (son of Lord Cork) and Colonel Arthur Hill. In spite of their kindliness towards him, they found his case too full of holes, and reported against it. On their advice the Cromwellian Privy Council resolved on the 25th April, 1656, that no claim for arrears of pension from the late King should be admitted. This was a courteous way of disposing of Clotworthy's "grievance," for they might have added that the pension was unlawful in its origin, and that both he and his father had been compensated for its loss. Yet, stale and untenable as Sir John's pretensions were, his persistence carried the day. He stood in no awe of the Commonwealth Council; and, passing over its head, he appealed to his old friend the Protector, who called for a fresh report. This was enough. What were the terms of the report, or who made it, is unknown; but on the 13th May, 1656, Cromwell cited it as a reason for awarding compensation to Clotworthy. He surmounted the objections which subordinates had raised by basing his decision, not merely on the ground of extinguishing the "pension," but of rewarding past services.

The reward took the form of a grant to Clotworthy of a lease of Lough Neagh for 99 years. Doubtless he craved the Bann also; but that was pledged to the City of London. A Signet Letter from Cromwell (patterned on a King's Letter) authorised an Irish Patent in Sir John's favour, at a rent to be settled by the Commonwealth Council in Dublin. That body was composed of his own cronies; Cromwell's son, Henry, being chief of the Executive there. Irish grants were cheaply bestowed at that epoch; and, if the Lord Protector had been

minded to give anyone a lease of the whole island, at a peppercorn rent, his power to do so could not be gainsaid.

Clotworthy at once journeyed to Ireland with the Signet Letter; and in July, 1656, presented it to Henry Cromwell. Instead of being content with the valuable gift he had received, he began an intrigue to enlarge it. In this he was abetted by the son of the great Puritan and his Council, who showed themselves as corrupt as the worst parasites of the murdered King. They fixed the rent on Lough Neagh at £5 per annum for the first seven years, and £6 thereafter. Then they conspired to extend the lease enormously beyond what Oliver bestowed. The men who had taken off a King's head to found a Commonwealth, and who opened business with a psalm, leaned to all the vices which had made the monarchy of the Stuarts odious.

The Republican Attorney-General for Ireland was a person named Basil, who had come over to "plant" in Donegal some years earlier. Basil's good fame in his own country was scanty; and when the House of Commons nominated him as escheator in Ireland the House of Lords for years withheld their approval to his appointment. His behaviour justified their forebodings. Taking Sir John Davies for his model, Basil played towards Clotworthy the part Davies had acted for Chichester. Untrammelled by supervision, he smuggled into Sir John's lease of Lough Neagh a grant of the fishery of the Bann, from the Lough to the Salmon Leap at Coleraine. It was an exploit as remarkable in a Republican as any theretofore wrought in the name of a King.

Basil knew, of course, that the entire river was pledged to the Londoners, as his predecessor had known it in 1609. But, just as Davies abetted its capture by Chichester, so the Commonwealth Attorney-General in 1656 made State policy subservient to sordid private interest. Indeed the excuse could be invented for Davies, when he betrayed his trust, that the

bargain with the Corporation was not then finally settled by the King. Basil, in 1656, knew that it had been perfected by the Lord Protector, and that the Bann was actually in the Londoners' possession, when he conveyed it to Clotworthy. Moreover, having drafted a fraudulent lease, he certified that it was framed "according to the tenor of his Highness's Letters of the 13th May, 1656."

Every man of the Dublin Cromwellian Executive—viz., Henry Cromwell, R. Pepys, Miles Corbett, Robert Goodwin, and M. Thomlinson, signed the lease. These were the saints who represented all that was godly in a land "darkened by the mists of Popish superstition." Of the five, Pepys was Chief Justice, and Corbett Chief Baron. That they subscribed with consenting minds, and not mechanically, sufficiently appears. Oliver's Letter, in granting Lough Neagh, asked them to decide on the rent which the State was to receive for it. To carry out the cheat as to the Bann they had to fix two separate rents, one for the Lough and the other for the river. The Bann they set down at £35 for the first seven years, and £44 thereafter, and this brought home to them the fact that the river was seven times a more valuable fishery than Lough Neagh. Yet their instructions never mentioned the Bann. To complete the trick the Clerk of the Council, Thomas Herbert, certified that he had "entered and examined" the documents on which the lease was issued. Guilt, therefore, sat on the consciences of all, for not only had they given away Lough Neagh for a song, but they sacrificed without authority what on their own showing was seven times more valuable. The Londoners deemed the Lough worth £100 a year in 1622.

When the lease was enrolled the gang grew alarmed. Clotworthy, therefore, got Henry Cromwell to apply to his father's secretary in London, John Thurloe, to cloak the fraud. In December, 1656, Henry implored Thurloe to obtain from his father a fresh Signet Letter sanc-

tioning a grant which would include the Bann. Thurloe ignored his supplications, and thus the hypocrites were left in the plight of men who, to rob the City of London, had betrayed their master.

The Commonwealth Charter, which restored the estate of the Corporation, including the Bann, was issued three months later, and thus two repugnant grants came into existence. The Dublin junta kept their secret to themselves. Thurloe also held his peace, and in the following year Cromwell died. Thurloe, however, carefully preserved the correspondence, and after the Restoration hid it behind the ceiling of a garret in his chambers at Lincoln's Inn, with other Cromwellian literature. There it was found fifty years later—embalmed in the odour of sanctity.

Cromwell's death soon led to a flood of intrigue among his Anglo-Irish retainers. Each was intent on asserting one great principle—how best to hold on to the spoil with which confiscation had endowed them. If Republicanism would secure this, they were Republicans. If possession must be tempered by monarchy—then "Long live Charles II."

CHAPTER XXI.

REBELLION REWARDED.

THE Irish Republicans quickly came to the conclusion that monarchical principles possessed a virtue which afforded the best guarantee for their interests. Their budding royalism was threatened with blight from one quarter only—the exiled Irish soldiers who had fought for Prince Charles at home and abroad. These unreasonables had to be reckoned with, for Gaelic swordsmen, gentle and simple, formed part of his body-guard and influenced his decisions. He even sympathised with their religion while his exile lasted, for the Duke of Ormonde relates that he once found his Majesty secretly hearing Mass in Brussels in a fit of lonely piety.

The Cromwellians, awake to these difficulties, and ready to jettison any inconvenient doctrines which blocked their way, held a Convention in Dublin in 1659-60, to debate "the situation." First they seized Dublin Castle from the weaklings who represented the tottering Commonwealth, and next they imprisoned all Catholic loyalists who could be laid hands on, to prevent their having any credit in bringing back the King or earning his gratitude. Then they sent an embassy to Brussels to propose conditions to his Majesty. Sir Arthur Forbes (son of the "discoverer" of 1628) was their messenger, and on his return Forbes reported hopefully to their spokesmen, Sir Charles Coote and Lord Broghill (Boyle). On the 16th March, 1660, the exiled King wrote engaging that "whatever Coote should promise and undertake on his behalf (which it was in his power to perform) he would make good."

Clotworthy was a leading member of the cabal; and on the 30th March, 1660, he was nominated to proceed to Flanders

to conclude the negotiations. When he reached London, his journey was stayed, as General Monck had won over Speaker Lenthal to his views, and the royal cause was thriving without the aid of cross-Channel converts. Sir John, therefore, remained in England to influence opinion against attempts to disturb the arrangements of the Irish confiscators. King Charles, on the eve of his return, issued from Breda a Declaration securing in their estates those of his enemies who had not taken part in his father's execution. At the same moment he promised that the Irish who had served him should be restored to their lands. Unhappily, the pledge to the Irish was broken, while the bargain with Coote was kept.

Much huxtering and hugger-mugger went on at Whitehall when the King came back. A large subscription was raised among the wily "Undertakers" to bribe his courtiers, and using this lubricant, Clotworthy and his friends found easy access to the Throne. Their aim was to ensure that the confiscations should be legalised, no matter who might suffer. Charles summoned a Parliament for each of the Three Kingdoms, but the Irish Executive (staffed with men of Cromwell's mind) found no difficulty in packing the Dublin House of Commons with prayerful freebooters. The Restoration, which brought a joyful change in England and Scotland, made none in Ireland, unless for the worse. The loyalty and sufferings in exile of the King's friends were forgotten. The squalid attornment of his enemies was remembered and rewarded.

Irish Cromwellianism after the Restoration remained organised and formidable as before. It dominated the Government; and its mayors and sheriffs returned to Parliament such men as they listed. Out of 260 members in the Lower House, only 64 represented counties—the rest being sent up by hole-and-corner "Corporations" to which the natives were not admitted. These phantom bodies (dowered with two members) were manned by Ironsides who could hardly pronounce the names of their billets. Indeed statutory power

was soon afterwards taken to replace the "barbarous and uncouth" Gaelic place-names (which limned every lineament of the landscape) with sweet-sounding "Jonesboroughs" and "Draperstowns."

In the counties a bare handful of the inhabitants possessed the franchise. The voting was a mere taking of "voices" in the sheriff's parlour. A "Legislature" constituted in this fashion consummated in 1662-5 the confiscations which the Acts of "Settlement" and "Explanation" enshrine. Lord Chancellor Eustace summed up the result in a letter to the Duke of Ormonde:—"Those who fought against his Majesty are to have the estates of those who fought for him." The King's secretary, Nicholas, in a letter to Eustace expressed his regret that the "soldiers" should command such influence in the new Parliament. Still his Majesty yielded himself up to those who helped to betray his father, declaring he was determined never to go "on his travels" again.

In the island which had been the most faithful of the Three Kingdoms to the Crown, Cromwellianism survived as hardily as in the days of Oliver himself. A packed Parliament, a ruthless Executive, and a venal judiciary made or declared the law to a prostrate people. In England and Scotland the Royalists came into their own again. In Ireland they were betrayed or plundered or forgotten.

The only clog on the Republican triumph was the King's scruple against allowing the leading regicides to retain their booty. Estates in Ireland had been grabbed by Cromwell, Ireton, Ludlow, Bradshaw, Corbett, Jones, Axtell, and others, whose hands reeked with the blood of Charles I. These were declared forfeit; but their rightful owners were not allowed to get them back. Over 111,000 acres in seventeen counties, at a rent of £8,726 a year (which would now represent ten times that amount), awaited disposal. To prevent their restitution to the natives, it was slyly proposed to Charles II. that his dear brother, the Duke of York (afterwards James II.),

should take them as a gift. James accepted the lands, and Charles consented—to the disgrace of both. After that, no assailant of the doings of the Dublin Parliament could lightly accuse it of unreasonableness to the King.

CHAPTER XXII.

THE "FAMOUS PAPER."

In July, 1660 (two months after the Restoration), Clotworthy learnt that Sir Arthur Chichester, now Earl of Donegall, was travelling to London to greet the new sovereign. Lord Donegall and his father had fought for the royal cause as strongly as Sir John and his brother had supported the usurpers. An earldom was conferred on Sir Arthur in his father's lifetime, at the request of the Duke of Ormonde, for services certified to have been performed in Ulster when the Scotch troops deserted Charles I. Lord Donegall was coming to town, relying on Ormonde's help and the King's gratitude, to work for the restitution of the fisheries surrendered to Strafford. Doubtless he knew of Cromwell's lease to Clotworthy, but he also knew that such grants had become nullities. So, too, did Clotworthy, and a race hotly contested began between them for time and favour.

On the 1st August, 1660, a frigate left Dublin by royal command to fetch the Earl of Donegall to England. To forestall the enemy Clotworthy presented a petition on the 6th August, 1660, praying the King to confirm Basil's lease. At the same moment the London Corporation was moving for a royal charter to replace Cromwell's. Thus there were stirring around Whitehall three rival claimants for the northern fisheries. Charles felt bound, as Cromwell did, to respect the pledges made to the Corporation as to their Ulster estate. He was largely a stranger to events in Ireland during his exile; and was attended at Court for Irish affairs by Bishop Bramhall,

late of Derry, and formerly chaplain to Strafford. Bramhall had followed Charles to the Continent, and exercised there "curiously unepiscopal functions as a Royalist prize-agent." To him Clotworthy's petition was referred; and, on the day it was received, the Bishop reported in its favour, without making the smallest inquiry. Such haste in an Episcopalian dignitary to help a Presbyterian "malignant" shows how these Christians loved one another.

Sir John's petition was a network of falsehoods. It re-hashed a number of old fables about the long-lost "pension," with a few new ones for garnish. Beginning with a lie in point of date, it set forth that Sir John had a pension of 6s. 8d. a day granted him by Patent on the 2nd July, 1640. In 1640 Bramhall was Strafford's chaplain; and this romance cannot have imposed on him. Strafford sailed from Ireland in April, 1640, to crush the Scotch rebellion, knowing that Clotworthy was his bitter enemy. He left behind him as Deputy a loving friend, Wandesforde, who was also Bramhall's patron; and Bramhall, of all men, was aware that Wandesforde would not have sanctioned a pension to an opponent deep in intrigue with the Parliamentarians to compass the Lord Lieutenant's downfall. Besides in 1640 Sir John was only 34 years old, and had performed no service to merit reward. The pension to his father was dated the 2nd July, 1618, twenty-two years earlier. So a false date was put forward lest, if 1618 were mentioned, inquiry might be set on foot to unravel the mystery of a pension to a child under twelve years of age.

The Petition went on to pretend that Sir John had been "obstructed in the receipt of his pension by the usurper Oliver." This was colossal mendacity, but the account given of Basil's lease surpassed it:—"On application, the late Oliver granted him, in lieu of the said pension, a lease of 99 years for Lough Neagh and the River Bann, with the fishing thereof."

No relevant fact was truthfully stated, yet Bramhall certified to the King that he had "studied the petition"; that Clotworthy "is certainly entitled to some compensation in respect of the pension of 6s. 8d. a day"; that both the fishing and soil of Lough Neagh, and of the Bann above Coleraine, were in the possession of the Crown, and that a lease should be granted to Clotworthy on the same terms which it was feigned Cromwell had sanctioned. Bramhall's traffickings as a prize-agent may explain why an Anglican Bishop, who owed everything to Strafford, should favour the pietist who had not only sent his patron to the block, but had embittered and disturbed Archbishop Laud's last moments on the scaffold.

The King (with Ormonde beside him) could see no reason for the haste with which his courtier urged that Sir John's lease should be renewed. He put aside the petition and left the Bishop's report unnoticed. Secretary Nicholas was then moved to jog his Majesty and request "that a warrant be prepared for his royal signature for drawing a Patent in Sir John Clotworthy's favour, according to the report of the Bishop of Derry." Still Charles made no sign. Possibly some recollection of his engagements to the London Corporation crossed his mind; perhaps the Duke of Ormonde dropped a hint in Chichester's interest; or his Majesty may have sought for a reason why he should extend such benevolence to Cromwell's righthand man. At any rate, the King was not touched to persuasion.

The feverish Clotworthy now tried another stratagem. He knew that if a King's Letter were sent to Ireland authorising a Patent (as Secretary Nicholas recommended), this would involve delay and inquiry, and that the arrival of Lord Donegall, or the intervention of the Londoners, might prove fatal to his hopes. He, therefore, changed his hand; and, instead of an Irish Patent, pressed for a lease direct from

the King at Whitehall. This would involve an innovation in procedure startling to Crown lawyers. Even Cromwell had not attempted any such inroad on ancient usage, but carried out his behests by the olden method of sending a Signet Letter to Dublin to authorise a Patent there under the Great Seal of Ireland. The needs of Sir John, however, brooked no delay, and sticklers for form could be "squared." Still the King, in spite of the pressure put upon him, refused to yield, and for three months he held firm.

Towards the end of September, 1660, Lord Donegall reached London, greatly to Clotworthy's discomfiture. To anticipate his arrival Sir John sent £20 to the Crown Office in Dublin to pay a half-year's rent which would come due under Basil's lease on the 29th September. This thrusting of payment on the royal officials was an attempt to rivet his claims and pretend they had been recognised on behalf of the King. The rent was dispatched almost to the day, though the lease gave six weeks for payment. Whether he had been as punctual in the time of the "usurper"—if he paid at all—is more doubtful; and no evidence of any other payment, before or after, exists. Then to strengthen his influence at Court Sir John threw another cast, and struck up relations with Colonel Daniel O'Neill, Groom of the Bedchamber and head of the princely house of Ulster.

O'Neill was the intimate and trusted friend of Charles II., on whom the growing difficulties of the Irish situation were pressing awkwardly. He expected to be restored to his estates in Down, having battled for the Crown on nearly every field in the three kingdoms. O'Neill had no love for Clotworthy, but still less for the Chichesters, because of the imprisonment of his father, Sir Con, in Carrickfergus by the "great Deputy" in 1603, and the forced partition of Claneboy with Hamilton and Montgomery to purchase pardon for a trumped-up "treason." Sir John to enlist his help promised

to secure the restitution of his property, part of which he had himself come by, and an understanding between them was arrived at in the crisis of Irish affairs at Court. Charles II., beset by conflicting and distracting demands, saw no way of keeping his word to the rival claimants who thronged upon him. In the Breda Declaration he had pledged himself equally to the Catholic Royalists and to their Republican supplanters. Compromise seemed impossible, and the King was caught in a vice, without hope of honourable escape, for both sides pressed pleas that could not be overlooked.

Coote's faction, at the Convention in Dublin, demanded by resolution that all the estates of the Adventurers, as they stood on the 7th May, 1659, should be confirmed by Act of Parliament. Under such an arrangement, Clotworthy's lease, and many other frauds, would have been legalised. A "settlement" so one-sided would destroy the hopes of the natives, and the Catholic soldiers who had surrounded Charles abroad raised such a protest that it was rejected by his Majesty. The disappointed Cromwellians waxed wrathful, and to soothe them it became known that any alternative they put forward which offered an outlet for the King's embarrassment would be accepted.

On the 9th November, 1660, there waited on Charles at Whitehall a trio consisting of Clotworthy, Lord Broghill (Boyle), and Sir Audley Mervyn. They produced a paper showing that all-round justice could be done, and that there was land galore for every claimant. The ingenious Clotworthy had found the key to the maze in which his Majesty was enmeshed. It was a blessed discovery. His acreages and estimates were accepted with royal grace and a total absence of investigation. The scheme he broached—known afterwards as "the famous paper"—became the basis of the "Act of Settlement" of 1662, and was hailed by courtly experts as a solution of the insoluble. The King could now turn away from a knotty problem to lighter themes, and naturally his

obduracy towards Sir John's petition for a lease melted away. Such was his gratitude that he not only promised to confirm it, but conferred on the author of the "famous paper" the peerage of Massereene. The lease secured the Bann, as well as Lough Neagh, to Clotworthy, although the river had for years been in the possession of the Londoners.

The "famous paper" in effect embodied the original demand of the Cromwellian Convention under a different guise. More fair-seeming than that project, it was equally fatal to Royalist hopes. Thus Sir John was the artificer of both his own and his party's fortune on that famous night at Whitehall. When he bade his Majesty "good evening" he might well deem himself a thrice-lucky adventurer. He must have chuckled heartily as he strode to his lodgings at the "Three Elms" in Chandos Street at the thought of the great ones he had hoodwinked and the obstacles he had overcome. To take in Cromwell over the "lost pension" and win his Signet Letter for Lough Neagh; to bribe Henry Cromwell and the Dublin Executive to super-add the Bann; were strokes of genius; but to beguile Charles II. into giving kingly confirmation to a fraudulent lease about which even Cromwell had been deceived, and gain a peerage in the process, was a success almost uncanny. The King and the doomsman of his father alike outwitted; the Corporation of London and their enemies, the Chichesters, alike befooled; the friends of Laud and Strafford enlisted and placated; and every minor difficulty surmounted—these made up a combination of achievement which entitles the student of villainy to bespeak for Clotworthy a special niche in the gallery of rogues.

To outpace his competitors in securing the grant he accepted a lease from the King direct, instead of obtaining a Patent such as he got from Cromwell. No authority existed for the issue of a lease of Irish Crown property lacking the

Great Seal of Ireland, and no such lease was binding. Nevertheless, by this means a sidelong Royal sanction was given light-heartedly to a grant of Lough Neagh as well as the non-tidal Bann. At that moment the new Charter for the Londoners, granting them the entire Bann, was being prepared, and was shortly afterwards enrolled, in repugnancy to the Lease.

The new-made Lord Massereene next arranged to baulk Colonel O'Neill so that he could retain the lands he had promised to restore him. O'Neill was married to the Countess of Chesterfield and had been schooled a Protestant under the patronage of Archbishop Laud. He was famed as "of a courage very notorious." The operation of the Act of Settlement in his case illustrates the fate which befell Royalists less favoured. To thwart O'Neill, a fair-seeming proviso was inserted in the draft Bill of "Settlement." It declared merely that, for every estate given up by the Planters, they should receive equivalent lands elsewhere. Nothing could sound more reasonable.

The new peer and his friends, however, were determined that the "joyful Restoration" of his Majesty should bring joy to no one in Ireland but the King's late enemies. Their faction was led by men well versed in affairs of State; while their victims were either returned exiles or persons long estranged from Courts and Parliaments.

The "Settlement" Bill was a purely Cromwellian composture, for, although it embodied the King's recognition of the loyalty of his Irish soldiers, this was offset by an envenomed tirade against the mass of the people. The keynote was struck in a preamble which recited "the unnatural insurrection, murther, and destructions of the 23rd October, 1641," while the massacres and dispossessions which had provoked the outbreak were left unnoticed.

When the Bill became law a Court of Claims was appointed to hear applications for restoration from ancient owners, and applot the territory to be awarded in exchange. This tribunal was presided over by Sir Audley Mervyn, Speaker of the Irish House of Commons, one of the trio who promoted the "famous paper." He was a venal parasite who ruled against every contention on behalf of the Irish. To make sure that the Cromwellians should suffer no deprivation, his "Court" announced, at an early sitting, that there were no lands available out of which the Undertakers could be "reprized"—i.e., receive equivalent estate. This was in flat contradiction of the assurance to the King in the "famous paper"; but it was true, for the Adventurers so managed that all such property had meanwhile been given away among themselves. This was done by way of what was blandly called "cautionary reprize," which meant that—taking time by the forelock—they had annexed everything for their faction.

Colonel O'Neill, Protestant though he was, could not get back a rood of his land. Even Charles II. proved powerless to help him. The King created him Postmaster-General of the United Kingdom, but nothing in the way of restitution could be wrung from Lord Massereene. When O'Neill died his Majesty interested himself on behalf of one of his cousins, Sir Henry O'Neill, whose lands were also in Massereene's hold. Pressed to make restitution in a debate in the Irish House of Lords, the new peer rose and, taking the Royal Declaration in one hand, he drew his sword with the other, exclaiming: "I will have the benefit of it with this."

When any Royalist soldier or "innocent Papist" asked for reinstatement, the Planter in possession demanded what equivalent land he was to get before being ousted? None was to be had, and the intruders, after a fine parade of legality, retained their domains, while the natives were left out in the cold. The promises made them in the King's Declaration, in

the "famous paper," and in the Act of Settlement remained a dead letter.

Certain Catholic officers were mentioned by name in the Act and guaranteed restoration by its clauses. This created a difficulty, so they were left to die in London of hunger and plague. Charles II. would not as much as pay their way to Dublin to enable them to seek redress.

CHAPTER XXIII.

LORD DONEGALL'S ROMANCES.

At the height of Clotworthy's intrigue for the confirmation of his lease Lord Donegall reached London, being wafted across the Channel in a royal frigate. He soon realised at Whitehall that those whom he regarded as the "King's enemies" had grown to influence and had supplanted many of the "King's friends." Still he believed that olden services would not go unrewarded, and he knew that the Duke of Ormonde would stand by him. He and his father had hidden away Strafford's Patent for twenty years, unenrolled. To obtain a new grant which should include Lough Neagh and the Bann was the wish of his heart. He came to Court, not merely to pay homage to Charles II., but to seek redress for the surrender forced on his family by the Minister of Charles I. Lord Donegall knew the favour shown to Clotworthy by Cromwell, and it roused his ire to think that the son of an old subordinate should carry off the fisheries which he looked on as a perquisite of the Chichesters. Were there gratitude in kings, he thought, Cromwell's gift must be recalled and bestowed on himself.

Yet his lordship found his rival as highly esteemed by Charles II. as he had been by the Lord Protector. Nor did the support of the Duke of Ormonde countervail his influence. All that their joint exertions effected was to delay Clotworthy's triumph. When the "famous paper" begot the new lease Lord Donegall was almost in despair, but he did not give up the struggle. The obstacles in his path which the lease created, not to speak of the royal engagement to the London Corporation to restore the Bann, seemed insurmountable. A

tussle with Sir John at Whitehall taught him that it was hopeless to think of winning anything from that stout fighter. Still harder was it to prevail against the Londoners. He found the influence of his opponents overpowering, and their claims blocked his hopes. Lord Donegall, therefore, cast about for some indirect means of gaining his ends.

Wily councillors before long suggested a way out. He was advised to abandon his original purpose and send in a petition for a "reversionary" Patent for the fisheries. This was only to take effect at the end of Clotworthy's lease, but for immediate consolation he also prayed for a grant of the rent payable under it to the Crown. The plan was a catching one to recover lost ground, but what reasons could be found to support it? None existed, so Lord Donegall proceeded to invent them. He had to get over the difficulty that Strafford compelled the surrender of 1640 as an act of restitution, and had compensated his father and himself by the grant of an indefeasible Patent for the rest of their ill-gotten estates with an allowance of £60 a year in the Crown-rent. Acceptance of the advantages conferred in 1640 could hardly be reconciled with a demand for further compensation in 1660. To blame Strafford for enforcing the surrender would be natural and tempting, but was unthinkable, as any slight on the memory of the martyr-Viceroy who had given his life to uphold Charles I. would be fatal in a suppliant to Charles II. Lord Donegall, therefore, had to present matters in a way which should make it appear that his father and himself in relinquishing the fisheries were the victims of arbitrary power, and at the same time find a scapegoat to accuse—an attack upon whom would not offend the King.

The position was delicate, and needed the best-considered falsehoods. Lord Donegall, however, was no witling, and the tradition of the "great Deputy" stirred his brain until at length the necessary culprit was hit upon in Deputy Wandesforde. He, in Strafford's absence, signed the Patent of 1640,

and on him all the blame for compelling the surrender was cast in 1660. The innocent Wandesforde was charged with having deprived Lord Donegall of a pension of £40 a year, and "forcing on him fresh Patents under colour of his having defective title." This was as gross a myth as the fables of the Clotworthy pension or the promises of the "famous paper." Wandesforde merely carried out arrangements previously made by the Lord Lieutenant; and had nothing to do with the surrender, or the question of an allowance. Yet this blameless subordinate, who had been dead twenty years, was saddled with the doings of his master and with the hagglings of the Commissioners for Remedying Defective Titles.

The "pension" story rested on the fact that originally Strafford agreed to allow the Chichesters £40 a year in lieu of the £100 received under the Londoners' lease of Lough Neagh. This, to soothe the family, he increased to £60; and, instead of paying it by the clumsy method of a pension (as was at first intended), he reduced the rent under the Patent by £60. The change did away with the earlier proposal, and was gladly welcomed by Lord Chichester. Yet Charles II. was told that Wandesforde had robbed the persecuted and faithful peer of a £40 pension. To prove it Lord Donegall produced the first Order of the Commissioners as to the £40, and suppressed the second as to the £60. The first Order fitted in with Clotworthy's £40 rental to the Crown, which Lord Donegall was seeking to capture, and balanced beautifully with the "equities" which he contended for. Any distorted story of this kind went unscrutinised by the gay advisers of Charles II.

It fell in with the purposes of Lord Massereene that Lord Donegall should secure a reversion of his lease. To him it was immaterial to whom he paid rent, or who succeeded to the fisheries after his term expired. Lord Donegall's success would strengthen him against the Londoners as to the Bann, for each would have an interest in resisting their claims.

Accordingly the twain "got together"; and thenceforth the new peer became the ally of his late rival.

The symmetry of the proposal that the "lost pension" of one nobleman should be supplied from the rent due to the Crown by the other, captivated the courtiers at Whitehall. It was such a pretty arrangement, and so historically just in the eyes of all who had been bribed to promote it. In the golden days of the Restoration, the thinnest coating of fact served to veneer any romance put forward by a favourite. Charles II. was an accommodating prince. What cared he for recitals in parchments? There was no one even to remind him that, in the draft of his Charter to the Londoners (then almost ready for his signature), the Bann was once more declared their property. So three months after Clotworthy's triumph the King yielded to Lord Donegall's prayer, and, on the 28th February, 1661, a "Letter" was made out authorising a Patent to him of "the reversion" of Lough Neagh and the Bann, with an immediate gift of the rent of £40 a year coming from the new lease of Lord Massereene.

The Royal Letter was embellished by recitals drafted by Lord Donegall and crammed with untruth. It set forth that James I., in 1621, granted the fishings unto Arthur, Lord Chichester; that in 1638, "to comply with our late royal father's occasions," they were surrendered to Charles I.; that in consideration of this generosity, the Chichesters should have received "an annuity, pension, or yearly rent-charge of £40 per annum," with liberty to fish for the provision of their households; but that they were disappointed as to all these promises. This was a moving tale of unrequited loyalty; yet the brows of even the Merrie Monarch would have knit had he been told a tithe of the truth.

The parchments of the previous half-century contradicted every item of this rigmarole and showed what an accurate recital should have disclosed. This was:—

That James Hamilton, through the abuse of spent

warrants, came by extravagant grants in collusion with Chichester;

That Hamilton made over much of the property to the Deputy, who, to cloak his rapine, issued a Patent for it to his nephew without kingly sanction, and by the misuse of a Royal Commission;

That the nephew assigned to his uncle all that the Patent conveyed, including the Bann and Lough Neagh;

That, after the Bann was given by Charter to the City of London, £4,500 was paid by his Majesty to "compensate" Hamilton and Chichester;

That a bogus "surrender" to the Crown of the Bann was then made;

That, seven years later, Chichester (after his removal from the Deputyship), as Lord Treasurer, asserted title to the River by means of false entries in the Crown ledgers;

That, by "favour" of the Duke of Buckingham, a King's Letter was procured in 1620 for a regrant of his estates;

That on this warrant, through the knavery of escheators and inquisitors, another Patent giving him the non-tidal Bann was fabricated in 1621;

That in 1640 Strafford, on discovering the facts, enforced against his heirs a surrender of the river, with Lough Neagh; and

That for this they were lavishly recouped by a Patent granting them valid title to vast properties unjustly come by, with an allowance off their rent of £60 a year.

In the days of the Stuarts, truth and patents were estranged.

On the 10th April, 1662, the Charter to the Londoners was signed. Charles II. gave them once more the River Bann, from Lough Neagh to the sea, as if no adverse grant had been made to Chichester or Clotworthy. He did so in the same

words as it had been conveyed to them by James I. and Cromwell.

Two Patents of the river to different interests, within 18 months, was a monstrosity, even for Anglo-Ireland; but not a ripple was raised thereby on the surface of official calm.

No idea of duty to the King appeared among his officers. The habit of taking "presents" undermined their sense of public obligation; and money was freely spent on them by suppliants. Cash payments preluded the success both of Lord Donegall and of Lord Massereene. Even the English Solicitor-General, for drafting the Act of Settlement, in 1662, to suit the ex-Cromwellians, was presented with a "small token of thankfulness" by them on the motion of Lord Massereene in the Irish House of Lords.

His lordship, though provided with such a willing penman as conveyancer, made no attempt to have inserted in the Act a clause to confirm his lease, while he availed of it to make all the rest of his estates secure. As a "Commissioner for the execution of the Royal declaration," he wielded large influence in shaping its clauses, yet he avoided anything which would risk bringing the lease under discussion.

Three years later he procured in the Act of Explanation (Sec. 55) a confirmation of his title to some property which he took under the Act of Settlement; but again attempted nothing to legalise the lease. It, therefore, never received recognition from either Statute or Patent. Lord Massereene died in 1665, and for three centuries afterwards his cajolement of Oliver Cromwell, Henry Cromwell, and Charles II. remained unknown. A like penumbra shrouded the Chichester conveyances, during the Irish "dark ages."

Some 35 years after the Restoration, laws which forbade the teaching of Catholics to read or write, or the sending of their children abroad to learn, were artfully fashioned by the Planters. Edmund Burke described their system as "wise

and ingenious." Illiteracy checked premature scandal against a new and frail nobility, and gave it time to become respectable before the story of the upstarts' fortune and origin could be widely known.

CHAPTER XXIV.

LAWLESS LORDS JUSTICES.

In June, 1661, Lord Donegall set sail for Ireland, furthered by Treasury permits freeing him from Customs duties. On arrival in Dublin, he sued for a Patent under the King's Letter of the previous February. No Lord Lieutenant was yet installed, as Monck (the newly-made Earl of Albemarle) failed to come over. Three temporary Lords Justices formed the Executive—viz., Lord Chancellor Eustace and the now ennobled Coote and Boyle. £1,500 a year apiece rewarded them for carrying out their functions, and they discharged them exactly in the spirit of the Council of Henry Cromwell five years before. The King's Letter was addressed to this trio. Doubtless they had been privily bespoken by Clotworthy in Lord Donegall's interest, for they responded to his requirements with such alacrity that a new Patent was sealed ten days after he landed. Usually years were occupied from the time the King's Letter was lodged before a grant could be got out. Many legal formalities had to be complied with; and amongst these the law prescribed, as the most essential, a prior public inquiry in order to guard against encroachment on the rights of others. So vital to validity was this Inquisition that the Statute governing Patents declared void any grant made without it.

The Lords Justices ignored the law, and issued to Lord Donegall a Patent which snatched the Bann from the Londoners, and Lough Neagh from the public, without inquiry or notice to anyone. A dispensation called a "non obstante" was inserted in the Patent, which purported to make it valid despite the non-holding of the inquiry. To include in it a

waiver of the Statute was but an added illegality. The Lords Justices could not "dispense" with an Act of Parliament; and the King's Letter did not pretend to authorise the dispensation. Yet the Patent of these 'prentice hands loftily announced itself good "notwithstanding the Statute."

By the agency of this paltry trio, Lord Donegall on the 3rd July, 1661, was allowed to consummate the iniquity which the "great Deputy" begot in 1603-4. Their grant empowered him to assert anew a claim to Lough Neagh and the Bann, which had been branded as untenable five times in the previous half-century. Scotched by Strafford, assailed by Sir Arthur Forbes and Sir William Power, denounced by Baron Oglethorpe, exposed by Sir James Balfour, arraigned by Deputy St. John, and blighted by a pedigree entailing every vice, it was revived by a tricky exercise of power in an unsettled State, as a sequence to Lord Massereene's lease.

So rank was the repute of its illegality that Lord Donegall in the following year applied for another King's Letter to give it a lacquer of legality. With this object he induced Charles II. to affix his signet to a second Royal Letter containing the falsehoods already exposed.

The new Letter declared that:—"When Wandesforde was Deputy it was sought to force fresh Patents on Lord Chichester, under colour of his having defective title. These Patents, which were never enrolled or paid for, shall be vacated; and new Patents for his estates shall be given to Lord Donegall."

Plainly a fresh effort was to be made to include the fisheries in some legitimate grant covering the whole of the Chichester properties—as in 1621. It was a subtle purpose.

For twenty-two years the Patent of 1640 had been left unenrolled; and now its owner wished to discard it altogether with a view to getting an omnibus Patent. Doubtless he calculated by this means to get rid of the blot on the family escutcheon cast by Strafford, but, whatever lay behind the

scheme, it miscarried. An unlooked-for fatality overwhelmed his plans.

While the new Patent was being prepared, Cromwellian strategy in the Irish Parliament was at work; and in 1665 the "Act of Explanation" provided that existing grants would become void unless enrolled within two years. Busily as he strove, Lord Donegall could not get out his new Patent in these two years; and, when the last days of the period were approaching in 1667, he was driven, through lack of time, to enrol the hated grant of Strafford. The new one was never issued, and his whitewashing processes came to naught. He had hoped that, with a title freshly furbished, the Chichesters would go down to history unspattered, and that all proof of past disgrace would be wiped out. Only by the aid of the parchments of 1640 and 1662 could the mazy story of a sixty-year fraud be pieced together; and these he strove to get rid of like those of 1603. The skeleton in the family closet, however, still lay unburied and remained as grisly as before.

The failure to get the proposed Patent "past the Seal" in five years contrasts suggestively with the celerities of 1661, when ten days served the rinsings of a regicide Executive to produce a Patent disposing of the greatest fishery in the Three Kingdoms. No grant for the Donegall estates, therefore, exists (apart from that for the fisheries) save the misliked Patent of Strafford which Charles II. was prayed to "vacate"; after it had been sullenly left unenrolled for a generation. Despite the allegation that it was "forced" on Lord Chichester, it remains the sole title of a family of meritless intruders to the lands of the O'Neills and O'Dohertys. If Strafford's wraith haunted Dublin Castle in 1667, what time his parchment was tardily lodged for enrolment, the ghost even of "Black Tom" must have wrestled with a smile.

As for the fishery Patent, hurriedly rushed forth by casual Lords Justices to cheat the Londoners and the public, it is the only warrant of the Deputy's descendants to control Lough Neagh and the Bann. By its "virtue" the right enjoyed by the people of a province from time immemorial to earn a livelihood as their fathers did was challenged, and an exasperating monopoly attempted to be established.

Those who applaud the statecraft which resulted in the spoliation of the princes of Tyrone and Tirconnell may well ask themselves whether the breed which supplanted them is such a vast improvement. No catalogue heretofore drawn up of the sins of Irish chieftains brands them as cheats or forgers—though many other libels against them are extant from the pens of those by whom they were robbed.

CHAPTER XXV.

HOW TO LOSE AN EMPIRE.

In the century which followed the reign of the Stuarts no record worth mention remains of the doings of Lord Donegall's descendants. Gaelic annalists, who would have cherished local chronicles, had been driven out; and British civilisation had not overtaken or undertaken their work. That the Chichester frauds formed part of a long-continued system practised by the heads of the Executive appears from another exposure made, nearly a century later, in the English House of Commons. After the Revolution, Charles Montagu (subsequently Earl of Halifax, who was appointed Chancellor of the Exchequer in 1694), was accused on the 16th February, 1698, of having in the previous year obtained for himself a grant, under the name of Thomas Railton, of forfeited estates in Ireland worth some £13,000. The lands included those of Lord Clancarty. Montagu, having a majority in the House, defiantly admitted the charge. In 1701, however, he was impeached, on this and other grounds. He again did not deny the facts, and pleaded the authority of King William III. Ultimately, the impeachment was abandoned as impracticable, but Montagu was struck off the Privy Council.

Many of the Elizabethan and Stuart grants reveal a purpose, not only to seize the land of the natives, but to reduce them into slavery. Elizabeth's charter to the Smiths in 1571 gave, with the territory to be conquered, "native men and women" as chattels. Chichester declared in 1602 that the Irish "should be made perpetual slaves to her Majesty"; and he wished to send O'Cahan to the Virginias instead of to the Tower. In 1605 Hamilton was awarded by James I. "native

men and women villeins and their followers." In 1613 the charter to the Londoners enabled them to take "estrayed bondmen and bondwomen and villeins and their followers." A Patent of Charles I. presented Hamilton, after he became Lord Claneboy, with "natives and villeins with their sequels." Cromwell's shipments of Irish youth as slaves to the Barbadoes was merely a development of this policy.

Small additional infamy, therefore, attaches to the "Protector" for giving effect to the designs of his predecessors. The spirit of the 17th century monarchs and his was the same towards the nation of which Attorney-General Davis declared:

"The Irish be a race of great antiquity, wanting neither wit nor valour. They received the Christian faith above 1,200 years since, and were lovers of music, poetry, and all kinds of learning, and possessed of a land abounding with all things necessary for the civil life of man."

Earlier than Davies, Spenser of the "Faerie Queene" wrote in 1596:—

"The Irish are one of the most ancient nations that I know of at this end of the world. . . . They come of as mighty a race as the world ever brought forth . . . very present in perils, great scorners of death."

For the uprooting of such a breed, high political and moral reasons had to be invented, but when the natives were got rid of and their persecutors could discover no political or religious pretexts to cloak their greed, they fastened nakedly on the input and earnings of the settlers from England and Scotland.

These supplanters of the Gael were in the third and fourth generation harassed and skinned as thoroughly as if they had belonged to the outcast race. In the province where Papists were almost forbidden to breathe, the framers of the Penal Code, in the name of "the rights of property," taught the humbler Protestants the scantiness of their mercies.

The descendants of the "great Deputy" did not attempt to enforce their Patents while knowledge of their origin pre-

vailed and malodor beset them ; but in the reign of George III. their baleful activities had consequences which were empire-wide. The extravagance and rapacity of the Chichesters led to the enforced emigration of the children of the Planters, and powerfully contributed in 1776 to the loss of the American Colonies. The armies of Washington were so largely recruited from the evicted tenants of Ulster that, according to the evidence presented to a Parliamentary Committee, half the Revolutionary soldiers were Irish. For this Lord Donegall and his imitators were to be thanked. The "flight of the Earls," which the "great Deputy" promoted, had for its sequel the flight of the peasants, provoked by his descendants ; and with it the break-down of the imperial tie between Britain and the greatest part of North America.

The American upheaval was itself preceded by a rebellion amongst the Ulster Protestants. A close connection can be traced between the failure of the one outbreak and the success of the other. In July, 1770—only eighty years after the Battle of the Boyne—the offspring of the Planters in the Counties of Antrim, Down, Derry, and Tyrone rose in arms. British writers like J. A. Froude and John Wesley, Irish historians like Lecky and Benn, agree as to the responsibility of the landlords who provoked the insurrection. Froude links together as cause and effect the atrocities of the Marquis of Donegall and the loss of the American Colonies.

He says :—"Sir Arthur Chichester, the great Viceroy of Ireland under James I., was, of all Englishmen who ever settled in the country, the most useful to it. His descendant, the Lord Donegall, of whom it has become necessary to speak, was perhaps the person who inflicted the greatest injury to it. Sir Arthur had been rewarded for his services by vast estates in the County Antrim. The fifth Earl and first Marquis of Donegall, already by the growth of Belfast and the fruit of other men's labours, while he was sitting still, enormously rich, found his income still unequal to his yet more enormous

expenditure. His name is looked for in vain among the nobles who, in return for high places, were found in the active service of their country. He was one of those habitual and splendid absentees who discharged his duties to the God who made him by magnificently doing as he would with his own. Many of his Antrim leases having fallen in simultaneously he demanded £100,000 in fines for the renewal of them. The tenants, all Protestants, offered the interest of the money in addition to the rent. It could not be. Speculative Belfast capitalists paid the fine and took the lands over the heads of the tenants to sub-let.

"Mr. Clotworthy Upton, another great Antrim proprietor, imitated the example, and at once the whole countryside were driven from their habitations. Sturdy Scots, who in five generations had reclaimed Antrim from the wilderness, saw the farms, which they and their fathers had made valuable, let by auction to the highest bidder; and, when they refused to submit themselves to robbery, saw them let to others, and let in many instances to Catholics, who would promise anything to recover their hold on the soil.

"The most substantial of the expelled tenantry gathered their effects together and sailed to join their countrymen in the New World, where the Scotch-Irish became known as the most bitter of the Secessionists."

Mr. Froude traces to these evictions the uprise of the "Peep of Day" and the "Hearts of Steel" conspiracies, and adds:—

"It is rare that two private persons have power to create effects so considerable as to assist in dismembering an Empire and provoking a civil war. Lord Donegall, for his services, was rewarded with a marquisate; and Mr. Clotworthy Upton with a viscounty (Lord Templetown). If rewards were proportioned to deserts, a fitter retribution to both of them would have been forfeiture and Tower Hill. . . .

"Throughout the revolted Colonies, and therefore probably in the first to begin the struggle, all evidence shows that the foremost, the most irreconcilable, the most determined in pushing the quarrel to the last extremity, were the Scotch-Irish, whom the Bishops and Lord Donegall and Co. had been pleased to drive out of Ulster."

Mr. Lecky declares the outbreak "was mainly attributable to the oppression of a single man—the Marquis of Donegall. . . . The conduct of Lord Donegall brought the misery of the Ulster peasantry to a climax; and in a short time many thousands of ejected tenants, banded together under the name of Steelboys, were in arms."

Their "formidable insurrection," he says, caused "the great Protestant emigration" from Ulster to America. "In a few years the cloud of civil war, which was already gathering over the Colonies, burst; and the ejected tenants of Lord Donegall formed a large part of the revolutionary armies which severed the New World from the British Crown."

Benn's "History of Belfast" states:—

"An estate in the County Antrim, a part of the vast possessions of the Marquis of Donegall (an absentee), was proposed, when its leases had expired, to be let only to those who could pay large fines; and the agent of the marquis was said to have extracted large fees on his own account also. Numbers of the former tenants, neither able to pay the fines nor the rents demanded by those who, on payment of fines and fees, took leases over them, were dispossessed of their tenements and left without means of subsistence. Rendered thus desperate, they maimed the cattle of those who had taken the lands, committed other outrages, and, to express a firmness of resolution, styled themselves 'Hearts of Steel.' One of their number, charged with felony, was apprehended and confined in Belfast in order to be transmitted to the county gaol. Provided with offensive weapons, several thousands of the peasants proceeded to the town to rescue the prisoner, who

was removed to the barrack and placed under a guard of soldiers (23rd December, 1770). . . . . Being delivered up to his associates, they marched off in triumph. . . . . So great and wide was the discontent that many thousands of Protestants emigrated from those parts of Ulster to America, where they soon appeared in arms against the British Government; and contributed powerfully, by their zeal and valour, to the separation of the American Colonies from the Crown of Great Britain."

On the 6th April, 1772, George III. wrote to the Lord Lieutenant (Townshend) :—

"His Majesty's humanity was greatly affected by hearing your Excellency's opinion that the disturbances owe their rise to private oppression, and that the over-greediness and harshness of landlords may be a means of depriving the kingdom of a number of his Majesty's most industrious and valuable subjects. The King does not doubt but that your Excellency will endeavour, by every means in your power, to convince persons of property of their infatuation in this respect, and instil into them principles of equity and moderation, which, it is to be feared, can only apply an efficient remedy to the evil."

In November, 1772, the Lord Lieutenant proclaimed a pardon to "the wicked and dangerous insurgents who in July, 1770, assembled themselves in arms in large numbers in the counties of Antrim, Down, Armagh, Derry, and Tyrone." It was too late.

The Belfast "News Letter" of the 16th April, 1773, computed that "within forty years past 400,000 people have left this kingdom to go and settle in America." In the three years from 1771 to 1773 alone, 101 ships left Ulster ports, carrying over 30,000 emigrants.

On the 15th June, 1773, John Wesley in his diary writes:

"When I came to Belfast I learned the real cause of the insurrection in this neighbourhood. Lord Donegall, the proprietor of almost the whole country, came hither to give his

tenants new leases. But when they came they found two merchants of the town had taken their farms over their heads; so that multitudes of them, with their wives and children, were turned out to the wide world. It is no wonder that, as their lives were now bitter to them, they should fly out as they did. It is rather a wonder that they did not go much further; and, if they had, who would have been most in fault? Those who were without home, without money, without food for themselves and families, or those who drove them to this extremity?"

A dispatch to the "Irish Society" of the London Corporation in 1802 says of the Right Hon. Richard Jackson, a middleman of the London Clothworkers' estate near Coleraine:—

"It is commonly reported in the country that, having been obliged to raise the rents of his tenants very considerably, in consequence of the large fine he paid, it produced an almost total emigration among them to America, and that they formed a principal part of that undisciplined body which brought about the surrender of the British Army at Saratoga."

Unmoved by a riven empire, the Nero-like Marquises of Donegall, in unbroken succession, were quietly hatching out schemes to enforce the recognition of their Patent for the waters of Lough Neagh and the Bann.

CHAPTER XXVI.

THE PLANTERS' QUARREL.

In 1755 Lord Massereene's lease of 1660 expired, and in 1769 the Lord Donegall of that day began to take thought of his "reversion" to the fisheries. The claim of the Chichesters had slept for over a century, and was unknown to the people. Its assertion was beset with difficulties, for the Irish Parliament and Executive would have set themselves against any attempt by such an individual to control Lough Neagh. Several Statutes treated it as both a public highway and a public fishery. But his plans to capture it were skilfully laid. The Londoners had, between 1744 and 1760, erected four traps in the Bann at the Leap of Coleraine near the sea for the capture of salmon. These necessarily diminished the catch further up, and Lord Donegall, without impugning their Charter, objected that their mode of fishing injured his rights in a corner of Lough Neagh. He laid his complaint of damage in a pool on the Armagh shore, forty miles from the traps, instead of in the Bann, and singled out as his quarry the lessee of the unpopular "Irish Society" to serve as defendant. In this way his grant of 1661 was for the first time brought to the notice of the public.

In 1781 and 1784 he launched actions, which miscarried, for trespass to the supposed fishing in Co. Armagh by the erection of the traps. In 1787 he made a fresh onset, and the third trial began in 1788 at Armagh, 33 years after the expiration of Lord Massereene's lease. In framing his suit he astutely avoided anything which would raise a question as to the validity of his Patent. Hence he made no claim for damage to the fishery of the Bann, where the mischief from the traps

would have been sorest, lest, as the Londoners' Charter included the entire river, a battle as to title should begin. He rigidly confined his complaint within Lough Neagh, to which their Charter did not apply. At the trial, therefore, the only issue was: Did the erection of the traps injure the supposed fishery in the pool of Lough Neagh to which the Londoners could make no claim? If he had charged damage to the Bann he could have had a trial in Antrim, which is bounded by the river. There, a friendly Sheriff would have composed a jury more to his liking; but he laid the venue in Armagh, where he was without local influence, rather than force a conflict with the Londoners as to his pretensions to the Bann. The motive which inspired these tactics and its cunning is evident.

At the trial he did not attempt to prove that any part of Lough Neagh was injured. Still, as the traps must have hurt all the upper waters, the jury decided that, if they were ultimately held to be unlawful, the damage should be £45. This finding was elaborated into a "special verdict" drawn up between the opposing counsel, which set out their version of each litigant's title. The question of the legal right to erect the traps was left over for argument in the Appellate Court in Dublin. The only point to be decided was: Whether as a possible hindrance to fish ascending to Lough Neagh the traps could be maintained.

The Londoners' counsel at this stage was the Attorney-General (John Fitzgibbon), who allowed the "special verdict" to be so framed that their Charter and Lord Donegall's Patent were mutually accepted as unimpeachable.

Soon afterwards Fitzgibbon became Lord Chancellor and Earl of Clare. When the appeal came on he presided at the hearing in 1789, and struggled hard to prevent the traps being condemned. The majority of the judges, however, decided that they were illegal, and the Londoners after some time raised a further appeal by means of a Writ of Error to the Irish House of Lords in 1795. There again the Chancellor

figured as the leading member of the Court and strove to help his old clients.

The Dublin Parliament in 1782 had declared its independence of English jurisdiction, and the air of its Court in College Green was charged with Irish spirit. When the Writ of Error had been argued for a day, one of the legal peers, Lord Pery, showed his mettle by suggesting that the Londoners' Charter was defective for lack of the Irish Great Seal. This was a deadly thrust; but he then aimed a home blow at their opponent. He suggested that, although Charles II. made the grant to Lord Donegall earlier than the Charter, the Londoners retained priority under their original Charter from James I., because the annulment of the latter took place under an English decree of Charles I., which did not extend to Ireland. Therefore, he contended, they still possessed their ancient rights intact. These objections raised the slumbering wraith of international conflict with Great Britain at an embarrassing moment. They bristled with delicate political problems, and the Lord Chancellor cleverly foiled them.

Dealing first with the Donegall Patent, he narrated that he had acted as counsel for the Londoners at the trial at Armagh in 1788, and had gone there "for the very purpose of showing that Lord Donegall had no title—but a clause in the Act of Settlement put that out of the case." Turning to the Charter, he declared that the Londoners held by possession for over a century; and, although the Great Seal of Ireland might originally have been necessary to it, a good possessory title had been acquired by the lapse of years. These statements appeared conclusive.

Yet the Act of Settlement had no operation to legalise a Patent such as Lord Donegall's. The Chancellor was entirely mistaken on this point. As to the Charter, the lack of the Great Seal was felt to be so serious that a Bill was rushed through Parliament a few weeks later to mend the flaw. Both of Lord Pery's objections, therefore, struck at the

marrow of the case; and the Chancellor's way of meeting them showed that he was sapping for a channel of escape from the political perplexities they presented. Perhaps, too, he sought to screen his blunder at Armagh in failing to raise the question of Lord Donegall's title, for the Act of Settlement offered no obstacle to his doing so. It merely legalized Patents of property vested in the Crown, which had been confiscated because of the Rebellion of 1641. The "special verdict" indicated (wrongly) that it was by virtue of a confiscation then made that the Crown obtained the fisheries, whereas such title as it possessed (if any) was enjoyed previously.

Equally erroneously the "special verdict" alleged that the fisheries were sequestered by Cromwell. They were given away by Cromwell, but had not been seized by him. Only Patents to property seized in consequence of the Rebellion were "ratified and confirmed" by the Act of Settlement, and Lord Donegall's grant was not in that category. The fisheries were given up by his ancestor a year before 1641, and were, therefore, not "sequestered" owing to the Rebellion. The Lord Chancellor, unaware of this, allowed the special verdict to be misframed at Armagh, and then misapplied the law on the Woolsack. His pronouncement that the Act of Settlement "confirmed" the Donegall grant, coming from one who had been retained as counsel to oppose it, silenced Lord Pery.

These high clashes between the Law Lords almost caused the fate of the "traps" to be lost sight of, and probably helped to bring about the rejection of the Londoners' appeal. The House held unanimously in favour of Lord Donegall, whose victory was the sweeter because it had been won without provoking any challenge to the validity of his Patent. His well-judged tactics won for it the sanctity of a legal baptism. Soon afterwards he applied in Chancery for an order to prostrate the traps. The Londoners fought on; and, under

the intricate procedure of that epoch, brought the matter from Court to Court.

In 1801, after the Dublin Legislature had been abolished by the Act of Union, a fresh appeal reached the Lord Chancellor. He delightedly entertained it, and for the third time heard a case in which he had been counsel for the appellants. The Irish House of Lords was no more, and, sitting alone, he learnedly decided in favour of the Londoners. Lord Donegall was not only beaten, but condemned in costs, and the traps were saved. Safe though they were, his Patent was still safer, for its validity had never once been called in question in any Court, and the legal struggle was confined to the right to erect the traps in a part of the river to which he laid no claim.

Thus ended a thirty years' litigation. The plaintiff never stirred more. The Londoners, grateful for their escape and for the Act which dispensed with the Great Seal to their Charter, were content to enjoy the tidal fishings with the traps, unmolested. Accepting the view of their trusty Lord Chancellor, that Lord Donegall's Patent had received confirmation by the Act of Settlement, they silently abandoned their rights in the non-tidal Bann.

Taking courage at this, Lord Donegall began to make lettings of the river. He first gave his brother-in-law (and agent), the Reverend Edward May, a lease of the Bann in 1803 for 61 years at £50 a year of the salmon "within the known and accustomed limits of the fishery."

In 1805 this lease was registered publicly, and as no one challenged the letting, the Reverend Edward May assigned it in 1811 for £500 to Sir George Hill, Recorder of Derry, who was also a lessee of the Londoners' fishery in the tideway. Other persons then consented to pay rent for the river to Lord Donegall, in the belief that the litigation of 1769-1788-1795-1801 had made the Bann his. In 1827 Lord O'Neill accepted

from him a lease of the eel-fisheries of the river at £369 a year, paying the enormous fine of £7,384.

Thus in the first half of the nineteenth century the Donegall interest formidably entrenched itself behind the Patent. There was, however, no attempt to exclude the public from Lough Neagh until 1873, and it was then only made as a consequence of the litigation as to the Bann. For in 1868 the Londoners woke up to the fact that they were owners of "the entire Bann." After centuries of torpor they claimed it by ejectment, as if nothing had happened since the reign of James I. While, however, they lay asleep, successive Marquises of Donegall had made themselves masters of the stream. The ejectment was met by numberless defences; and, after some legal sparring, they lost heart. In 1872 the suit ended in a settlement, whereby the "Irish Society" bought up a lease of the non-tidal salmon fishery for £2,250, and covenanted to pay a rent of £80 a year to Lord Donegall. The valuable eel-fishery of the river they left in his hands.

By this compromise they acknowledged his ownership of their own waters, and the long struggle between the City which financed the Plantation and its adversaries fizzled out in a dismal attornment. A title, guaranteed to them by the charters and promises of three Kings and the parchments of Oliver Cromwell, was abandoned for ever. Holding genuine and undoubted grants, they did homage to the suspect scrivenery of the freebooters who for three centuries had plotted to despoil them. What could explain such a nerveless breakdown? No doubt Fitzgibbon's bemusement as to the Act of Settlement misled them, but why was there no one to unravel the mystery of iniquity lurking behind the deeds of 1661, 1656, 1621, 1611, 1608, 1606, or 1603-4?

In 1872, when they capitulated, the work of the Irish and English Record Offices had shed much light on the grants and confiscations of the Stuart and Cromwellian periods. The

documents in the Rolls and Exchequer Offices had been translated, calendared, and indexed. State papers, inquisitions, and MSS. from a number of libraries had been published. It was with all these sources of information thrown open that the Irish Society, having begun their assertion of title, tamely acknowledged the overlordship of their ancient enemy.

When the richest Corporation in the world, and the Imperial city of the Empire, could be baffled in such wise, what hope had the natives in days of yore of retaining their property against the greed of those who controlled the machinery of Irish government?

CHAPTER XXVII.

TWO GREAT TRIALS.

THE acceptance by the Londoners of the parchments of Lord Donegall was an event of mournful significance for East Ulster. The concern of the public in it was immediate, for it created a new situation which affected everyone along the banks of Lough Neagh. When such powerful opponents confessed the validity of the Donegall grant, and accepted a lease thereunder, they became almost as much interested in maintaining it as the owner himself. Before their capitulation nobody had ventured to dispute the ancient custom by which the public fished in and trafficked over the Lough. The moment a great Corporation bent the knee to wrong, an unexpected impulse was given to the spirit of encroachment. Once they yielded, with what hope could poor men hold out?

The thought, therefore, struck the Donegall lessee who claimed Lough Neagh as being embraced in his demise that to turn a thousand free fishermen into toll-paying serfs would prove a profitable enterprise. To assert his "rights" he took proceedings to restrain them from catching salmon in the Lough. For five years this action dragged from Court to Court, and only ended in the House of Lords in 1878.

The plaintiff's lease gave him dominion "within the known and accustomed limits of the fisheries as formerly in the tenure of Edward May." What these limits were was not defined; and that they included Lough Neagh was disputed by the fishermen. To ascertain the extent of "the tenure of Edward May," an examination of May's lease was indispensable; but at the trial (which took place in Belfast in 1874)

its production was refused. No explanation for withholding it was forthcoming, nor was the mystery which lay behind cleared up for 40 years. Nevertheless, on the strength of the Clotworthy grant and the Donegall Patent of 1660-61, Mr. Justice Lawson directed a verdict for the plaintiff—who, he afterwards ruled, had "as clear a documentary title as ever was submitted to a Court."

The fishermen applied for a new trial, and the Court of Exchequer granted it, largely because of the failure to produce May's lease. Against this decision the plaintiff appealed, but the Appellate Chamber was equally divided, so in 1878 he took the case to the House of Lords. There the "clear documentary title" produced small impression. For though the Patent from Charles II. granted Lough Neagh to Lord Donegall, the Law Lords agreed that the King's power to make the grant must be proved in the same way as if he were a private individual.

Lord Chancellor Cairns laid down that it would be "a legitimate and necessary subject of inquiry how and from whom, and subject to what conditions or qualifications, this possession or proprietorship was obtained." Its history, and especially how it became vested in the King, were "of very great importance," and it was ruled that to make the Crown title perfect there must, generally speaking, be "office found." The dispensation from the necessity for finding "office," which the Patent contained, was treated as a nullity, while the withholding of May's lease provoked adverse criticism. The plaintiff's appeal was, therefore, unanimously dismissed, and after this defeat he troubled the fishermen no more.

The judgment of the House of Lords confirmed with remarkable precision a legal opinion obtained in 1636 by Sir John Coke, Secretary of State to Charles I., as to the title to a Wicklow property which he was about to acquire. This old "opinion" ran:—"The Letters Patent granted of those lands by King James to John Wakeman are clearly void, for

that there was never any inquisition taken upon them whereby it could legally appear the King had title to those lands, and the King could not grant that which he had not." The view of the law in 1636 was a pithy anticipation of that laid down in 1878.

Forty years passed before the right of the public to fish in Lough Neagh was again contested. The Donegall interest meanwhile had descended to Lord Shaftesbury, and in 1905 the descendant of the great British philanthropist was induced for large moneys to make a long lease of the eel-fishing in the Lough. The lessees undertook to assert his exclusive ownership therein, but Lord Shaftesbury's confidence in his rights was so faint that he refused to give them the usual covenant for "good title."

No original of any Patent could be found; and the lessees had to obtain copies (or rather extracts from such copies as served their case) from the "enrolments" preserved at the public expense in the Record Office. Researches to prepare for the litigation occupied two years, and these were mainly entrusted to an expert, or "archivist," whose claim to scholarship was undoubted. He was secretary to the Ulster King-of-Arms in Dublin Castle, an M.A. and LL.D. of Trinity College, a barrister having "large experience in making searches," and "thoroughly acquainted with the Record Office and searches there." His task mainly was to provide material to enable the new challengers of public right to meet the difficulties raised by the House of Lords in 1878.

The peers had refused to regard the Patent of Charles II. as decisive, and held that the Courts must probe behind it to ascertain the root of royal ownership. Statutes might dispense the King from holding inquisition if the previous owners were monks or traitors, but the right of the Crown to make a gift of what could not prima facie lie within its prerogative was not to be assumed.

The archivist, therefore, had cast on him the burden

of discovering how the Crown acquired the property, and of showing that inquisitions had been duly taken beforehand. His clients had further to establish that Charles II. possessed title as owner in 1660-1 to make a present of Lough Neagh and the Bann to private individuals, without regard to native user, or then existing rights. In 1907, when their researches were deemed complete, an action was launched to restrain public fishing in the Lough. Thanks to what is known as "legal reform," a jury was no longer necessary, and the trial took the form of an application for an injunction before a Chancery judge (Mr. Justice Ross) in 1908.

Every Court is dependent on the materials placed before it for forming a judgment; and the archivist's affidavits were those of an official whose attainments and position lent much weight to the case they presented. They were, therefore, unquestioningly accepted, but, unhappily, contained grave errors. Capital amongst them were:—

1st. That the earliest Patent of Lough Neagh was the grant to James Hamilton in 1606.

2nd. That before Hamilton's Patent was issued, "office" had been found on behalf of the Crown for something like half Lough Neagh—and that the Commission which governed this "office" was "practically all illegible."

3rd. That "the only Inquisitions, Patents, and Grants" relating to the Lough in the Record Office were those in the list he set out—swearing he was "satisfied there were no others dealing with the fisheries in Lough Neagh."

These propositions, if true, went far to meet the judgment of the House of Lords in the former trial. Yet, extraordinary to relate, they were either wholly unfounded or very much astray. Only when too late did the facts leak out. The archivist's list was vitally defective and incomplete, while the Commission was far from being "practically all illegible." The earliest Patent was not that of 1606 to Hamilton, but those concocted by Chichester in 1603 and 1604, which as

regards Lough Neagh and the Bann were warranted by no authority from James I. The Patents and King's Letters of 1603-4 were not mentioned by the archivist, and they formed the key to the position as defined by the House of Lords.

When Chichester in 1604 appropriated the title of "Admiral of Lough Neagh" he snatched a life-estate in the fisheries without the King's knowledge. Neither Lough Neagh nor the non-tidal Bann then was claimed by or "in charge" to the Crown. If the existence of these Patents had been disclosed, and if the King's Letter of 1603 had not been withheld, the fact that the fishery grants originated without Royal approval would have been established.

The Letters throw a piercing searchlight on the problem raised by the House of Lords, for they prove that James I. nowhere mentions the fisheries. Their silence, therefore, reveals that the origin of the grant lay not with the Crown, but in fraud. This fact being shut out from judicial cognisance, the cardinal principle laid down by the House of Lords was frustrated—viz., that the existence of Royal title to make a grant must be lawfully deduced.

To treat the Patent of 1606 as the earliest of the series not merely got rid of the necessity for coping with the fatal parchments of 1603-4, but enabled the contention to prevail that Hamilton's Patent was based on a valid inquisition. For at the "office" at Antrim on 12th July, 1605, a jury was alleged to have found that a pool in Lough Neagh was owned by the Crown. This verdict was arrived at on the inquisition held by Parsons, and at the trial in 1908 it assumed a fundamental importance. The terms of the Commission authorising it became equally vital, and as to these the archivist swore:—

"The Commission for holding the inquisition is attached to the original inquisition, and is practically all illegible. The inquisition deals with the eastern side of Lough Neagh only, and lands adjoining."

Judge Ross, with true insight, saw the necessity of trying

to ascertain what powers the Commission conferred, so that he might estimate what were the matters Parsons was inquiring into. He, therefore, sent for the original parchment. It was sadly defaced, and he, too, found it illegible. Since then, although portions remain undecipherable, enough has been transcribed to show what the Commission covered and authorised. This transcription reveals that it was issued without any reference to Lough Neagh or the Bann. Despite the fact that the decipherment is only partial, it shatters the case the plaintiff made.

The Commission is set forth in the Appendix, and, although several words are missing, enough is left to demonstrate that no inquisition founded on such a Commission could establish Crown title to Lough Neagh or the Bann (save as to a few monastic fishings). For what duties were the Commissioners appointed to discharge? They were ordered merely to report on the boundaries and extent of Sir Con O'Neill's possessions (to prepare for their partition between Hamilton and Montgomery), and also what "concealed lands" should have come to the Crown in Antrim and Down by reason of any forfeiture or attainder to provide for Thomas Irelande's £100 a year. Nothing more.

It was issued not by the King, but by Chichester on the 26th June, 1605, when he was thwarting Hamilton, and only a week after his bitter complaint to Cecil of the extent of the grants to "the Scot." Then it would have been as repugnant to the Deputy's feelings as to his interest to allow Hamilton get a rood of land or a fathom of water more than his two King's Letters covered. Just a year before, Chichester had concocted a Patent annexing to himself for life the fisheries of Lough Neagh and the Bann; and it was hardly likely that his earliest act after becoming Deputy should be to nominate Commissioners to assist a stranger to oust the "Admiral of Lough Neagh" from his new acquisitions and destroy the basis of his aquatic title.

The Commission recites that it was sped by reason of the two King's Letters presented by Hamilton, one on behalf of Thomas Irelande for £100 a year, and the other, on his own behalf, for the acquisition of Sir Con O'Neill's estate in Claneboy and the Great Ardes. The "metes and bounds" of Sir Con's territory were fixed by a Patent to his father from Queen Elizabeth of the 13th March, 1587, and never embraced Lough Neagh or the Bann.

The grant to Thomas Irelande could not have included them, for it was to be carved out of "concealed or forfeited" lands in Antrim and Down. There had been no previous confiscation of the fisheries. They had never vested in the Crown, and could not have been captured under the terms of Thomas Irelande's "Letter," even if Chichester had not already seized them for himself, or was in the mood to befriend an intruder.

In face of such facts can anyone imagine that the Inquisition was appointed to help Hamilton to waters which the Deputy had appropriated to himself? Had Judge Ross been afforded assistance in deciphering the Commission the true effect of the Inquisition would have been understood, and failure would have befallen any attempt to wrest that record to purposes repugnant to what it imported.

Once the objects of the Commission are made clear, not even the most partisan could suggest that it or the Inquisition control the title to the Bann or Lough Neagh, or provide "office" for their transmission to or ownership by the Crown.

Grim would have been the chuckling of the Deputy in 1605 had some seer foretold to him that in the twentieth century three Courts would decide that he signed the Antrim Commission to enable his rival and enemy to claim the fisheries which he had taken over for himself the year before!

In Claneboy there were attached to some of its fifteen religious houses near Lough Neagh riparian fishings. All monasteries had vested in the Crown since the Acts of Henry

VIII., but these Acts had not previously been enforceable in Ulster, which was unconquered ground. So, after fixing the bounds of Sir Con's estate, the Commissioners set down what the monks owned in order that their property might be the more readily placed at the disposal of James I. One of the "findings" inserted in the portion of the verdict relating to the monasteries declared that Queen Elizabeth was seized of various religious houses in Claneboy and of fishings in Lough Neagh "towards Claneboy," of eel-weirs near Toome, and of another fishery on the Bann in Claneboy, and that these vested in the King.

Whether this "finding" was really pronounced need not be discussed. Parsons may have "spatch-cocked" it into the parchment which his scribes prepared after his return to Dublin when he learnt that the Deputy had joined hands with Hamilton in a conspiracy to utilise Thomas Irelande's Letter to manufacture Patents and divert the property to himself.

That theory, however, is now immaterial; although Chichester elsewhere speaks of "false inquisitions returned of latter times." Taking it to be the genuine "finding" of the local jury, what bearing could it have on the ownership of the largest lake and richest river in the kingdom? Its terms are set out in the Appendix.

At that date no "forfeiture or attainder" from which grants under the Thomas Irelande "Letter" were to spring had been suffered by anyone except the monks. It was under Irelande's Letter they were given to Hamilton, and, leaving Lough Neagh out of account, a test can be applied to the bearing of the Commission and Inquisition by the "finding" as to the Bann. This contained no allegation that the river belonged to the Crown. In 1605-6 the owners of the Bann were as well known and as rightfully in possession as the owner of the Throne of England. If "half Lough Neagh" was found to be the King's, why did not the Inquisition declare the Bann to be Crown property,

instead of dealing merely with monastery fishings therein? Yet the whole non-tidal river was seized as completely as the Lough by Hamilton's Patent seven months later.

The reason was that Chichester had made friends with Hamilton, and arranged to pervert the grant into a conduit-pipe by which the fisheries were passed to himself. Thereupon his "life-estate" blossomed gaudily into flower as fee-simple by the magic of a secret conveyance from "the Scot." This was done without the payment of a penny to Hamilton—so cheap was "the price of Admiralty" in Chichester's day.

The infected grants of 1603-4, therefore, are the real fount of title, and furnish the clues which the House of Lords in 1878 declared should be traced. No confiscations had taken place in Ulster in 1603-4 save those affecting monasteries. The province was in profound peace under the treaty with O'Neill. Chichester had not become Deputy, and the absence of royal authority or foreknowledge as to the gift of fishery in the Patents is plain from the King's Letters. These were withheld at the trial as completely as the grants they were supposed to sanction, for the archivist was "satisfied" such trumpery was not to be met with in the Record Office—although he declared himself "thoroughly acquainted" with searches there.

Another omission from the archivist's list is markworthy. This was the non-mention of the second master-Patent in the series—that by Chichester to his nephew, Bassett, of the 1st July, 1608. It alone provided a clue to the frauds. The list of documents, sworn to be complete, was dank with error—however unwitting. Yet no thumbing of musty vellum or conning over script in crabbed Latin was necessary to discover the missing grants. Bassett's Patent is printed both in the State Papers and in the Calendar of the Record Office. Those of 1604 were published in 1846 in Mr. Erck's "Repertory."

The absence of such signal parchments from the archivist's roster contrasts oddly with what he put forward to enhance the value of the grant of 1621—which flowed from Allen's misconduct at Carrickfergus. This was the only Patent purporting to give Lough Neagh and the Bann direct to the "great Deputy." It was the last in his lifetime. The affidavit deposed that it reserved to the Crown a rent of £920 a year (or in present moneys £9,000). So large a rent made for belief in its genuineness; and the Courts were struck by the figure. Yet, plain on the face of the enrolment, the true rent was shown to be £30 15s. 6d. (thirty pounds fifteen shillings and six pence). Amazement is palsied by such artistry.

A wry presentation was made of facts and Patents which it was essential to justice to have rightly understood. The high position of the archivist led to his affidavits being accepted trustingly, while the fishermen were ill-equipped for a struggle needing years of research.

CHAPTER XXVIII.

THE FINAL FORGERY.

'APART from the mis-statements of the archivist, the absence of information which has since become available told heavily for the disputed Patents.

Although the King's Letter to Thomas Irelande only authorised a gift to the value of £100 a year, the Courts were not advised that it had been drawn upon by previous grants. Before 1606, if not then sterile, its fecundity had been much diminished. Yet the Patent of 1606 gave away a million's worth of property besides the fisheries. The improbability of James I.'s consenting to this devastation of Crown estate would naturally attract suspicion as to the genuineness of the grant, had attention been called to its sweeping nature. Even if the tapster at the "Half-Moon" had presented the Crown with £1,678 6s. 8d., the likelihood of royal sanction for a grossly excessive requital was slight. "New lamps for old" may be given away in Aladdin-land; but in the England of James I. it was inconceivable that his Majesty would consent to so reward such a payment. In any case it was incredible that he would allow his subordinates to part with a million on a warrant for £100, with leagues of river and square miles of lake flung in as a "tilla" or "hors d'œuvre."

The Courts were unaware of the extent of the Patent; and though, in one sense, the rest of its contents did not touch the question of the fisheries, its magnitude bore strongly on the question of a genuine emanation of the Royal will. The same challenge to the realities arose under the

hasty conveyance of the plunder by Hamilton to Chichester, for which no honest explanation could exist. Again, its stowage away and muffling up in the bogus Patent to Bassett spoke shrilly of illegality, but as to all this no warning hint came from any expert to guide his Majesty's Judges.

Chichester's freak surrender before Archbishop Jones, and Allen's misconduct in fathering the ~~Patent~~ of 1621 in the teeth of his Derry verdict, may be said to have been concerned with the Bann alone. Still the grant of Lough Neagh was so intimately linked with the river that any tribunal would have felt itself assisted by a full disclosure of facts where questions of good faith and probabilities had to be determined. An artificial darkness as to the origin and bearing of the Patents prevailed, and in such murkiness the law pronounced on their authenticity. Shade shaded shadiness.

This obscurity tended indirectly to the acceptance of another forlorn document concerning the modern history of the fisheries. The lease to May, which the House of Lords in 1878 was denied sight of, was at last put in evidence, and its value had to be appraised. When produced, the woeful spectacle it presented explained the reluctance to allow it to be examined at the trial in 1874.

Erasures, in which battalions of interlineations lay entrenched, pitted the parchment; and its plight spoke plainly of felonious mutilation. Who had been at work to change it, and to what purpose?

The author of the forgery was long dead, but the extent and nature of his operations could easily be traced. No sleuth hound was needed to follow the track. The original lease had been registered in the Dublin Registry of Deeds in 1805, and a "Memorial" of its contents, signed by Lord Donegall, was lodged there. Such Memorials must (by Statute) contain the description of premises in the exact words of the deed presented for registration, and this one had been framed on Lord

Donegall's behalf by his solicitor and was signed by his lordship with his own hand.

Registry officials only receive and file Memorials when, by a comparison with the originals, they are satisfied that the law has been complied with. When, therefore, the so-called "lease to May" was produced in 1908 its challengers straightway resorted to and compared it with Lord Donegall's Memorial. A glance at the "Memorial" established that there had been foul play as to the lease. It showed that what had been registered in 1805 was a lease of the Bann only and of a salmon fishery therein, while the so-called "original" granted "the salmon, trout, and scale fisheries of Lough Neagh and the River Bann." This laidly "fakement" explained the secret of the non-production of the lease in 1874-8. A forgery had been committed, and those who then had its custody felt too conscience-stricken to attempt to make it evidence.

Other differences also exposed its falsity. One of the most extraordinary was the contrast between the "Lease" and the "Memorial" as to the mode of witnessing Lord Donegall's signature. Two witnesses attested the "lease," whereas the "Memorial" showed there had been three to the original. The same three persons attested Lord Donegall's signature to the "Memorial" itself. Had the case been reversed, and if the names of three witnesses figured on the "lease" while only two appeared on the "Memorial," the absence of a name from the latter might be explained by carelessness or mischance. No such excuse could account for the disappearance of a signature from an "original" and its presence in a secondary document. Only one conclusion from such a variance seemed possible, yet the plaintiffs insisted that the "Memorial" was unreliable, and the piebald parchment genuine.

No Memorial had ever before been discredited in the centuries since registration was established. The title to millions' worth of property, not only in Ireland but in wealthy

Middlesex and vast Yorkshire, depends on their trustworthiness. The manner of their preparation and lodgment, as a system of verification of the contents of deeds, is one prescribed by Statute to prevent fraud, or to detect it if committed. Lord Donegall's "Memorial" branded the so-called "original" as a counterfeit. That was the function which the law assigned to it, and it fulfilled its duty. Still the imputation of forgery was too rude and uncourtly for the 20th century. A theory of inadvertence and mistake was preferred. "Forgery" is a hard saying, and any suggestion to explain it away attracts an honest mind. So the "Memorial" was held to be inconclusive, and the counterfeit genuine, by Mr. Justice Ross.

Fortunately for the repute of registration, research brought afterwards to light collateral proof of its reliability. On the day Lord Donegall executed the lease in dispute he also gave May a second lease relating to a quarry. Both were registered on the same day and by the same officials in Dublin. The "Memorial" of the quarry lease showed there were three witnesses to Lord Donegall's signature, and that these were the same three persons who attested the fishery lease and its "Memorial." Thus the witnessing trio were certified to be the same in the case of two leases and two "Memorials"—whereas the document relied on by the plaintiffs bore the signatures of only two witnesses. An independent and collateral registration, therefore, corroborated the "Memorial" of the fishery lease in a vital respect. To cast discredit on it in order to bolster up the decrepit Patents of the Donegalls was an ill tribute to the system on which so much property rests.

The judgment of the Court, however, turned mainly on the "additional records" prior to the reign of Charles II. which have already been analysed. Rightly regarded, every one of them multiplied discredit on the Donegall title, but proofs had not then accumulated that official frauds were palmed off as Royal grants, and instruments of crime as genuine acts of kingly power. It is, therefore, hardly to be wondered at

that parchments of apparently reputable origin should sway a Court guided by the reticences of an archivist—the main of whose history and compilations met with no contradiction. So judgment went against the fishermen and an end was decreed to public right in Lough Neagh A.D. 1908.

An appeal was taken, and was heard in the same year. The chief deliverance of the Appellate Court was made by Lord Justice Holmes, who, too, had been captured by the "additional records." He said:—"Having some experience of Ulster titles, I have been surprised to find that of King Charles II. to the fisheries of Lough Neagh and the Bann at the date of the Patent of 1661 so satisfactorily supported by earlier instruments." If they be "satisfactory," then what must other "Ulster titles" be like?

Lord Justice Fitzgibbon remarked:—"I cannot believe that all the documents of title in the case rest upon usurpation or pretence."

This Court also decided against the possibility of public rights of fishing in Irish inland waters, because no such rights exist in England. The Irish Fishery Act of 1842, however, recognises that "a general public right of fishing" may exist in fresh water, but its provisions went for naught, as Lord Chancellor Walker explained that this was a "misapprehension as to the law" on the part of Parliament. In other words, mere enactments may be ignored. The history of the Statute thus slighted shows that, instead of its words being a "misapprehension as to the law," they were the considered language of the strongest and most representative Select Committee that ever dealt with an Irish measure.

The Bill was discussed by a Committee of 27 members, including lawyers like Daniel O'Connell and Lalor Sheil, as well as the Solicitor-General for Ireland and the Chief Secretary. The landed gentry manned the panel, and the ancestors of peers like Lord Leitrim, Lord Newry, Lord Downshire, Lord Stuart de Decies, Lord Fermoy, and Lord Dunraven,

served upon it, with several members from Ulster counties, and one from the City of London.

The Bill repealed all previous Fishery Acts, and, as introduced by the Government, contained no recognition of a public right of fishing, because the English Acts contain none. To this O'Connell's Committee demurred, and a clause was unanimously inserted overriding the English principle and admitting the existence of public right in Ireland. By decisive words solemnly agreed to, a vital difference was established in the fishery law of the two countries. Confronted by this fact, the Lord Chancellor of a Home Rule Ministry in 1908 overcame its force by laying down that "There was a misapprehension as to the law" in the minds of the law-makers who framed the enactment. Apparently, therefore, when the Imperial Parliament is persuaded to legislate for special Irish conditions, and declines to saddle Ireland with English usages, it "misapprehends the law."

CHAPTER XXIX.

THE LORDS DIVIDED.

In 1910 the fishermen appealed to the House of Lords. After a week's debate that tribunal stood equally divided, and a second hearing was ordered. The arguments were renewed before seven peers, but the misdeeds of the Hamiltons, Chichesters, Clotworthys, and Donegalls were then unknown. Still their Patents so little impressed Lord Chancellor Loreburn, Lord Shaw, and Lord Robson that they refused to allow them to prevail against ancient user.

In England and Scotland, neither Thames nor Tweed, Lake Windermere nor Loch Lomond, is an appanage of royalty. The frontagers who own the banks enjoy therewith the "bed and soil," which is nowhere a "flower of the Crown." To enforce a contrary rule in Ireland strong reasons should appear. Nevertheless, the Patents, in the light presented by the archivist, satisfied Lords Halsbury, Macnaghten, and Dunedin. They not unnaturally assumed that such grants would not have been issued without the King's sanction, nor unless the Crown owned everything they gave away.

How James I. acquired the fisheries they could not explain, and Lord Dunedin admitted this frankly:—"It is impossible to point to any forfeiture which identified the Lough. Yet it was obviously very probable that it was included in the various territories forfeited to the Crown in the time of the O'Neills."

Four dates slay this speculation—as dates often ambush the adventurous. Chichester gave himself the grant of the fisheries for life with the title of Admiral on the 9th May, 1604. The Patent to Hamilton of Lough Neagh and the Bann

was of 14th February, 1606. Hugh O'Neill did not go into exile until the 14th September, 1607. The escheat of his property was not declared until ~~1613,~~ and for three centuries afterwards no one ever conjectured that his estate included Lough Neagh. Its boundaries in the Earl's Patent from James I. and in that of his grandfather from Henry VIII. prove that it did not do so. Con O'Neill made his surrender to Henry VIII., and took his regrant for "Tyrone" in 1542. Con MacNeale Oge O'Neill made his surrender for Castlereagh (or Claneboy) to Queen Elizabeth in 1587, and took a regrant. In the Patents given in exchange, the Crown nowhere pretends to convey or deal with Lough Neagh. Its shores bounded the O'Neill patrimonies, and no other Chiefs ruled beside them. Consequently, no "forfeitures" from any O'Neill can have vested its waters in the Crown. Nor can anyone except the O'Neills be suggested as owners from whom the Crown could have derived. The Act of Elizabeth attainting Shane O'Neill in 1569 does not help the argument.

The territory of the Claneboy O'Neills was granted to Hamilton three months before he received the Patent of Lough Neagh, which was conveyed by the alchemy of the Thomas Irelande "Letter," and not by that authorising the stripping of Sir Con O'Neill. This alone refutes the "forfeiture" theory.

Lord Macnaghten rested himself on a different basis. Misled by the archivist's failure to mention the Patent under which Chichester first took over the fisheries, and without knowledge of the effect of the Commission under which the Antrim inquisition was authorised, he ventured the opinion that proof was afforded of Royal ownership by that inquisition.

Quoth he:—"There is an inquisition which finds that Queen Elizabeth was entitled to one-half of Lough Neagh. 'How can you claim the whole'? it was said, 'when her Majesty did not pretend to more than one-half'? Lord Justice Fitzgibbon cut the knot by saying that 'medietas' does not mean 'one-half.' There I think his lordship is

wrong, but it is the only mistake—if it be a mistake—that the Lord Justice has made. It seems to me that the difficulty may be solved by a glance at any map which shows the boundaries of the counties bordering on Lough Neagh. The inquisition was an Antrim inquisition. The jurors could only deal with her Majesty's possessions in Antrim, and the fact is that half of Lough Neagh, and no more, does lie within County Antrim. The inquisition itself refers to an inquisition taken in County Down only eight days before. Probably there were other inquisitions dealing with the rest of Lough Neagh."

This was a hopelessly mistaken deliverance. The Inquisition was an "Antrim Inquisition," but the Commission for it extended to Down as well. It first sat at Ardwhin (recté Ardquin), where no reference to the fisheries was made. Moreover, the Antrim Inquisition does not find that "Queen Elizabeth was entitled to one-half of Lough Neagh." The translation by the "archivist" was:—

"All that moiety of the pool of Lough Neagh which lies towards the east parcel of Claneboy aforesaid in the county aforesaid."

This was merely a finding as to the half of a "pool" lying in the district to which the jurors were confined, and not one for half Lough Neagh.

The Record Office translation published years before the litigation, the work of a brilliant scholar, does not even employ the word "one-half." Whatever be the meaning of "medietas," it is in this "return" confined to something in Claneboy. Dr. Smith's Latin dictionary gives for its equivalent "the mean," and states it is "a word doubtfully coined by Cicero from the Greek."

In enlarging the scope of the Antrim Inquisition beyond Claneboy Lord Macnaghten displayed much intrepidity. His conjecture that "Probably there were other inquisitions dealing with the rest of the lough" is still more rash. No

trace of them exists, and none ever existed. The confiscators took the utmost care to preserve all writings which could warrant their possession. Chichester ordered the Antrim inquisition, not to help Hamilton, but to block him. They were then rivals, if not enemies. When they became allies soon afterwards no Crown title existed to justify Hamilton's Patent for Lough Neagh and the Bann. Every stretch of the river was in legitimate private ownership under English law, save the monastery reaches. The Lough lay in no man's private wallet—as was then notorious.

Never before was "fancy" History invented to decide the fate of real property in the House of Lords.

Preferable, indeed, is the title invented by the ex-monk, Miler Magrath, who, when converted into a Protestant Archbishop of Cashel, was got to visit London in Elizabeth's reign, and in a "book set down in writing by her Majesty's express commandment" declared in 1592:—"It is holden for an opinion in Ireland that her Majesty hath special right and interest in all principal rivers, loughs, lakes and great waters, in all islands and commodities contained upon them."

Miler, however, added a doubt:—"If this opinion be true. . . I am not sure of it." From that day to the present no one else has been able to invent a better title for the Crown to grant away Lough Neagh.

Lord Macnaghten was deeply impressed by the litigation in the Irish House of Lords. He quoted Lord Clare's account of his going to Armagh when Attorney-General to dispute Lord Donegall's title (omitting his error as to the Act of Settlement) and declared:—

"We know that the right or claim of the Donegall family to the several fishery of the whole of Lough Neagh had been asserted openly, and had been the subject of a litigation which lasted for thirty years. . . . Such a judgment . . . .

is entitled to the utmost weight, and better evidence of possession than any old lease can be."

Thus the Donegalls were depicted as boldly flinging their Patent in the face of the world, and daring all comers to deny its validity in 1788. The truth was that they challenged an English Corporation, disabled from asserting any right in Lough Neagh, as to its mode of fishing in the Bann, and in doing so took care to avoid raising any question of title which would bring their Patent into discredit.

For an Ulsterman, Lord Macnaghten showed slight acquaintance with the history of his Province. When he came to deal with May's lease he said it described the Bann "as being in the County of Tyrone as well as in Antrim and Londonderry; and I suppose the Bann was never in Tyrone since the days of the Flood." Every Ulster peasant knows that until the Planters carved up O'Neill's dominions the Bann always ran through "Tyrone." The county now called "Londonderry" formed part of "Tyrone," and was only shorn from it in Stuart times after Derry was allotted to the Londoners. Moreover, the Londoners' Charter, lodged in evidence before Lord Macnaghten, described the Bann in the King's name as being in "Tyrone," in the same way as did May's lease. His geographical scorn reveals the extent of his knowledge of the period he was discussing when trying to overturn the decision of his predecessors—Lords Cairns, Hatherly, Blackburne, and Watson—in 1878.

The "old lease," the importance of which Lord Macnaghten diminished, was denounced by Lord Shaw as a forgery. Lord Robson agreed with him in this. Its history lay within testable times, whereas little was known of the Patents beyond what appeared on their face. Lord Macnaghten and Lord Dunedin, while acknowledging that erasures disfigured "that unhappy document" (as the former dubbed it), and that interlineations had been inserted, treated these as innocent. The tell-tale Memorial signed by Lord Donegall, and

the contradictions and variances between it and the lease, were passed over in silence. It might have been expected that eminent lawyers would regard it as more important to uphold the title to property depending on registration in Ireland, Middlesex, and Yorkshire than to throw doubt on its processes in order to buttress questionable Patents.

Unless it should become part of public policy to discredit the registration of title, both in England and Ireland, it seems probable that the attitude of Lord Shaw and Lord Robson in viewing May's lease as a forgery will ultimately be regarded as the safer conclusion by property-holders.

So far three Peers agreed with the Irish Courts and three declared for the fishermen. The seventh member of the tribunal, Lord Ashbourne, steered a middle course. He avoided discussing the forged lease, and pronounced against restraining public right in Lough Neagh as a whole, but wished to confine the injunction to the northern part. This forced the Lord Chancellor to say that the sole question before the House was whether the entire lough, or none of it, vested in private hands.

Lord Ashbourne was reminded that he must declare himself "content" or "non-content" when that question was put; and, so entreated, he reluctantly sided with the Plaintiffs. He added a plea that costs should not be awarded against the fishermen; but the other six Peers, thitherto equally divided, were united in the determination that his vote must carry its logical consequences. Accordingly, by one quavering voice, the appeal stood dismissed, and the felonies of three centuries were held law-worthy.

The perfume of legality now sweetens the memory of the deeds of John Wakeman, Thomas Irelande, James Hamilton, Auditor Ware, Arthur Bassett, Arthur Chichester, Henry Cromwell, John Clotworthy, and Lord Donegall. Ermined innocence has arisen to bless their works. Spirits of grace garland their graves with wreaths of equity. In other words,

the children of the clansmen, whose rights Brehon justice guarded for a thousand years, have fallen among thieves.

When another national possession, the Curragh of Kildare, was subtracted from the people, the excuse of State policy was advanced, and Statute was obtained. Guile and wile sufficed to take in Lough Neagh. Public playgrounds are rare. Hence doth wisdom (lacking other present resource) lay up the ancient counsel :—

"Let these things be written for another generation."

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APPENDIX.

TRANSLATION OF THE COMMISSION SIGNED BY CHICHESTER, 26TH JUNE, 1605, ON WHICH INQUISITIONS WERE HELD AT ARDQUIN, CO. DOWN, 4TH JULY, 1605, AND AT ANTRIM, 12TH JULY, 1605:—

JAMES by the grace of God of England Scotland France and Ireland king Defender of the faith &c. To our beloved and faithful Nicholas Kerdiff esquire Serjeant at Law of our kingdom of Ireland aforesaid Charles Calthrop knight our Attorney General of our kingdom aforesaid William Parsons esquire our Surveyor General of our kingdom of Ireland Nicholas Kenney esquire our Escheator general of our kingdom aforesaid John Dallway esquire Robert Barnewall esquire and Laurence Masterson gent greeting WHEREAS we by our letters signed with our own hand and with our signet bearing date at Westminster the sixth day of December in the second year of our reign of Great Britain France and Ireland signified our royal will on the part of Thomas Irelande of the city of London merchant that to him or his assigns we should grant in farm so much of our manors castles lands tenements and hereditaments in our kingdom of Ireland as should attain to the annual value of one hundred pounds current money of England per annum or thereabouts . . . . . as should seem best to be granted to him or his assigns in behalf of the said hundred pounds and WHEREAS by other our letters by our hand bearing date the 16th day of April in the third year of our reign of England France and Ireland and of Scotland the thirty eighth we signified our pleasure on the part of our servant James Hamilton . . . . all castles manors lands tenements and hereditaments in the said country of Clandeboy and the Great Ardes . . . . . rents dues or customs of Ireland . . . . . , especially confiding in your fidelity prudence and foresight in transacting our business . . . . . Nicholas Kerdiff Sir Charles Calthrop or William Parsons or Nicholas Kenney we wish to be . . . . . our commissioners . . . . . or six five four . . . . . to inquire by the oaths of just and lawful men of the several counties within the province of Ulster aforesaid as well within liberties as without . . . . . five four three or two of you in the form aforesaid known or . . . . . by whom the truth of the matter may be better known or inquired of which . . . . . Brian ffertagh O'Neale or either of them in their life times or the life times of either of them were possessed . . . . . in English called "cuttings" in the country or territory called the Upper Clandeboy and the Great Ardes . . . . . and the limits of the premises . . . . . to you or six five four three or two of you in form aforesaid . . . . . or of either of them . . . . . of Carrickfergus in the province of Ulster aforesaid by . . . . . ways means and . . . . . whatsoever . . . . . and singular lands . . . . . whatsoever . . . . . the title already or heretofore has been found and what . . . . . which appertain or belong to us or ought to belong or appertain to us by reason of any attainder forfeiture or . . . . . or concealed in the counties of Antrim and Downe . . . . . above reprise and of all and singular articles things and circumstances . . . . . and accordingly you or six five four three . . . . . aforesaid or six five four three or two of you in form

aforesaid to provide concerning all and singular the premises . . . . . six five four three or two of you in form aforesaid make and execute with effect so that an Inquisition . . . . . or six five four three or two of you in form aforesaid . . . . . or two of you in form aforesaid . . . . . in the quinzaine of St. Michael the Archangel next ensuing under your seals or the seals of six five . . . . . to be delivered . . . . . all and singular Mayors Sheriffs . . . . . six five four three or two of you in form aforesaid in the execution of the premises aforesaid . . . . . .

Witness our Counsellor Sir Arthur Chichester knight our deputy general of our kingdom of Ireland at Dublin the 26th day of June in the third year of our reign of England France and Ireland and of Scotland the thirty-eighth.

SUMMARY FROM 1894 REPORT OF RECORD OFFICE OF THE INQUISITION AT ANTRIM.

Inquisition taken at Antrim, 12 July, 1605 (3° James I.), before William Parsons, esq., surveyor general of Ireland, John Dallway, esq., Robert Barnewell, esq., and Laurence Masterson, gent.; by virtue of a commission under the great seal of Ireland.

Jurors: John Lugg, of Portmuck, Brian Ognive, of Larne, Hugh Magee, of Ballindowne, Richard M'Jinkin, of Ballinlogh, Art ballagh O'Hary, of Loughtoman, John or Shane Oge O'Hary, of Kells, Phelim duff O'Hary, of same, Edmund O'Duffin, of same, Neale O'Duffin, of same, Donat or Donogh M'Gloster, of Glanarme, Donel ballagh M'Gille, of the Park, Alexander M'Randoll boy, of same, Art O'Hara, of Billy, Richard M'Robert Carry, of Cross, and Cormac O'Mallon, of Killelagh, gentlemen.

The Jurors say that Queen Elizabeth was seised as of fee, in right of her crown of England, of all manors, castles, lands, and other hereditaments in the lower part of the territory or country of Claneboy, called Lower Clandeboy, in the county Antrim.

They say that Lower Clandeboy contains certain lesser parcels or territories called tuoghs and cinaments, to wit: Tuoghnefuigh, &c.

The Jurors say that the bounds of the territory of Lower Clandeboy are: towards the whole east side, the high sea; towards the south, the bay of Knockfergus, the river Lagan to the ford of Garrifinbress, thence by known bounds separating it from Killultagh to where the little river Owen Camelin falls into Lough Eaugh or Sidney, as in an inquisition taken at Ardwhinn, co. Down, on 4 July, &c., &c.

[Here follow four-and-a-half printed pages of description of Sir Con O'Neill's lands.]

The Jurors further say that Bryan boy O'Maghallow, prior of the late house of regular canons of Muckmaire, at the time of its dissolution, was seised of the site of the priory and eight townlands, &c. The prior was also seised of a free fishing of salmon, eels, and other fishes in all waters within these townlands; of land called Broaghnenaw on the north bank of Owen Neview; of an old fort called Dunoare near Lough Eaugh; of land called Cloyenne Corp on the south bank of Bealagh

Negalvon; of land called Leighballi Islan bane in Tuogh Moylinny near Ramoore of the tithes of the premises; of the churches or impropriate rectories of Killede or Killelagh with the presentation of the vicar (who receives two thirds of the tithes and altarages), Emogall with the presentation of the vicar similarly endowed, Carnemeve (except the third of the tithes for the curate); and of the chapels of Reeltin, Duogh in Moylinny, Sillwoodan in Tuogh Munter Rividy (with the tithes of, &c.), in which chapels the prior was bound to maintain a curate; and of the chapel or rectory of Whitekirk in Iland Maghy with tithes (except a third allotted to the curate), the chapel of Ballimeighan with tithes (except a third allotted to the curate), and two parts of the tithes and altarages of Magherisergan in the Rowt, and Killgarne in the Larne. And of an old religious house called the Friary of Masserine and the townland of Ballydonogh in Ederdaowen belonging to it, and of 30 a. of land belonging to it, and in occupation of the garrison there. There is on the land of the priory an old Castle called Cloganmabree or Castlemouybray almost overthrown. Queen Elizabeth was seised of the dissolved priory and possessions, which are worth yearly 51s.

Queen Elizabeth was also seised of all fishings of salmon, eels, and other fishes on Lough Eaugh towards Claneboy, and old eel wears on the river Bann near Castle[Toome] and of a free fishing of eels, salmon, and other fish in the same river; worth yearly 13s. 4d.

The Queen, by English Patent dated 16 Nov., 13th year, in pursuance of Indentures 5 Oct., 13th, between the Queen and sir Thomas Smith and Thomas Smith his son, gave such of the premises as lie south of Castle-Belfast, CastleMoubray, and CastleToome, and the Monastery of Masserine together with great Arde and little Arde, as part of the earldom of Ulster, to sir Thomas Smith and Thomas Smith, for ever, under certain conditions as to the conquest of the land, its settlement with Englishmen, and the furnishing of armed men to hostings. [The Letters Patent, and Indenture are set out verbatim.]

The Jurors say that Thomas Smith the son on the 12th Oct., 1572, came to Ulster with a few Englishmen but did not repress the Irish rebels, nor plant or people the country, nor bring the armed men to general hostings as required.

The prior of the hospital of S. John of Jerusalem at the time of the dissolution was seised of the rectories of Moyuliske in Tuogh Moylinny, &c.

Gilleragh McCownagh, abbot of the house of canons regular of S. Augustin of Woodburne or Goodburne, was at the dissolution of the abbey seised of the site of the abbey and 15 acres adjoining; and of the rectory of Entroia or Antrim, &c. The premises are worth yearly 15s. Irish.

Murtha McAmullon, abbot of the house of regular canons of the order of S. Augustin of the Blessed Mary of Desert or Kells, co. Antrim, at its dissolution, was seised of the impropriate rectories of Dough Connor, &c. Worth 15s. Irish.

Shane O'Boyle, prior of the house of friars, preachers of the order of S. Dominic of Colrane, at the time of dissolution, was seised of the site of the priory, and four townlands and a half, named, &c.; and a fishery in the Bann for one day in each year (Monday after the nativity of S. John the Baptist), receiving all fish caught in the river on that day; also one salmon on every day during the fishing season from each fisherman. The premises are worth yearly 40s. Irish.

Gerald Missett, provost or master, in Irish called oughteran of the house of friars of the third order of S. Francis, of Inver, on the 1 Feb. 32° Hen. VIII. was seised of the site of the house, and the townlands called Garrimore and Ballygrenlawy in Tuoghlarne, &c. Worth yearly 6s. 8d. Irish.

Moriertagh M'Cann, abbot of the abbey of regular canons of S. Augustin of Ardmagh, co. Ardmagh, at its dissolution, was seised of land or territory called the Grange, &c. Worth yearly 8s. Irish.

The abbot of the abbey of monks of the order of S. Benedict called Black Abbey, co. Down, at its dissolution, was seised of the impropriate rectory of Dirreraghie, &c. Worth yearly 5s. Irish.

William O'Dorman, late abbot of the house of canons of S. Augustin of Bangor, co. Downe, at its dissolution was seised, &c. Worth 13s. 4d.

To the preceptory of S. John of Ardes, co. Down, belonged a grange, &c. Worth 5s. Irish.

James M'Gwilmer, abbot of the house of regular canons of the order of S. Augustin of Movilla, co. Down, at its dissolution was seised of the impropriate rectory of Dromma, &c. Worth 6s. 8d. yearly.

John O'Mullegan, abbot of the Cistercian abbey of Cumber, co. Down, at its dissolution, was seised of the chapel or grange called Templenelafin in Island Magee, &c. Value yearly 3s. 4d. Irish.

The prior of Inch, co. Downe, at the dissolution of the priory, was seised of the chapel of Langualattin in TuoghBraden Iland with tithes, &c. Value yearly 10s. Irish.

The prior of S. Patrick of Downe, co. Downe, at the dissolution of the priory, was seised of the rectory of Seinkill in Tuogh Cinnament, &c. The premises are worth 20s. yearly.

All the premises belong to King James as well in right of his crown as by reason of the force and intention of divers statutes, &c.

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